

THE AROHA BLOCK TO 1879

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Abstract: *Te Aroha was valued by Maori because of its strategic position as well as its healing hot springs, while Pakeha anticipated acquiring a large area (which shrank in size once surveyed) of fertile farming land. Before the Crown could acquire the block, the ownership of a disputed area fought over by the Marutuahu tribes (especially Ngati Maru) and Ngati Haua had to be determined. After the battle of Taumatawiwi of 1830, claimed as a victory by both sides, subsequent smaller battles continued for some years. In place of deciding ownership on this basis, the new land court struggled to make a judgment on the basis of contradictory claims about ancestry, battles large and small, and occupation.*

One part of the larger Aroha block, Ruakaka, was considered separately in 1869, resulting in the court allocating it to Ngati Haua. Also in that year, the first hearing of the Aroha Block was held, at Matamata, with the same outcome. Because of Maratuahu anger and threats of violence, Ngati Haua failed to survey the land as required, and a second hearing was held in Auckland, in 1871, at which Ngati Maru triumphed. Subsequently the block was occupied, but conflicts continued, notably when Ngati Haua gave a Pakeha permission to run cattle at Waiharakeke, further upriver.

Starting in 1873, James Mackay slowly purchased the interests of individuals claiming ownership of the block, and paid off the Ngati Haua claimants. Then in December 1876, Ngati Tumutumu/Ngati Rahiri claimed the land for themselves, and in the following year the ownership of the Waitoki block, downstream from Te Aroha, was contested. In July 1878, a third hearing of the Aroha case commenced, resulting in Ngati Rahiri being allocated £3,000 and 7,500 acres, the remainder of the block going to Ngati Maru. Subsequently, the process of subdividing the owners' interests proceeded, very slowly, and a small number of Pakeha settled and commenced farming or storekeeping.

EARLIEST MAPS OF THE DISTRICT¹

For the hearing of the Aroha block in the land court held in January 1871, James Mackay produced a 'Sketch Map of the Tauranga and Waikato District' showing rivers, streams, ranges, settlements, the Aroha Block, and

¹ Copies appended to this paper.

the sites of battles fought between Ngati Haua and Marutuahu since 1830.² In December 1873, Oliver Creagh,³ on behalf of the government, made the first survey of the Aroha block, showing its boundaries as being the Bay of Plenty confiscation line to the east, the Ngutumanga, Ke Kapara, Ourongomaeroa, and Hungahunga blocks to the west, the Waiharakeke Block to the south, and on the northern boundary the Omatai block and Te Pakoko, Paraharakeke, and the Mangaiti Stream. The only details drawn within the boundaries were the river, the mountain, and two peaks further along the range, Te Ana Tupapanu and Kohatu Rakirahi. There was one subdivision, the Ruakaka block, between the river and the mountain.⁴ Made for £1,450 at the government's expense, Creagh's map included much more land in the block than would be awarded by the court.⁵ Alfred Joshua Thorp,⁶ in his December 1873 survey of 'Te Aroha No. 1', showed the mountain and its spurs, the range, and the swamps west of the river.⁷ In about 1876, when the western boundary was defined,⁸ the Te Kapara block was separately defined.⁹

VALUED BY BOTH MAORI AND PAKEHA

Maori had long been aware of the value of the Aroha district, partly because of its strategic position but particularly because of the reputedly healing powers of its hot springs.¹⁰ And Pakeha were quick to see its potential value. According to a 1912 article in the *Te Aroha News*, at an unstated but early date Sir George Grey climbed Te Aroha and from its top declared, of the 'wilderness' below, that the Waihou Valley 'shall feed a

² James Mackay, 'Sketch Map of the Tauranga and Waikato District', 7 January 1871, University of Waikato Map Library.

³ See *Evening Post*, 17 June 1924, p. 8.

⁴ Oliver Creagh, 'Plan of Aroha Block, Upper Thames District, Queen's County. Applied for by Karauna Hou, Pepene, Kepa Te Wharini, and others', 31 December 1873, ML 3062.

⁵ David Alexander, 'The Hauraki Tribal Lands', in Hauraki Maori Trust Board, *The Hauraki Treaty Claims* (Paeroa, 1997), vol. 8, part 3, p. 159.

⁶ See papers on Maori in Hauraki in the nineteenth century.

⁷ A.J. Thorp, 'Te Aroha No. 1', 6 December 1873, ML 3008.

⁸ ML plan 3503.

⁹ Alexander, p. 162.

¹⁰ See paper on the Te Aroha hot springs.

nation'.¹¹ This was an example of local piety, for accounts of Grey's life make no mention of this, and he did not climb it when travelling through the district in 1849.¹² Grey's alleged sentiment was shared by other Pakeha, for example an Auckland newspaper describing the block in 1877 as 'one of the richest stretches of agricultural land' in the colony.¹³ The following month, Henry Dunbar Johnson, who would farm at Te Aroha West,¹⁴ wrote that he had 'seldom seen finer country in New Zealand, and if properly farmed it would support many hundreds of settlers'.¹⁵ Two years later, George Thomas Wilkinson, soon to become Native Agent in Thames,¹⁶ noted that it had 'for a long time been looked upon as the most valuable land in the Thames district for agricultural purposes'.¹⁷

Before its sale and survey, the extent of the block was over-estimated by those anxious to acquire it. In 1869 it was 'estimated to contain about 100,000 acres'.¹⁸ Two years later it was stated to be 240,000 acres.¹⁹ In 1872 and 1873, James Mackay estimated it to be 100,000 acres.²⁰ In late 1873 the first survey revealed it to be only 67,000 acres, not 130,000 'as had hitherto been calculated'.²¹ Further surveying produced an area of '62,552 acres, more or less'.²² When finally acquired in August 1878 the Crown received 53,908 acres.²³

¹¹ *Te Aroha News*, 29 November 1912, p. 3.

¹² G.S. Cooper, *Journal of an Expedition Overland from Auckland to Taranaki by way of Rotorua, Taupo, and the West Coast: Undertaken in the summer of 1849-50, by His Excellency the Governor-in-Chief of New Zealand* (Auckland, 1851), pp. 30-42.

¹³ Editorial, *Auckland Star*, 17 July 1877, p. 2.

¹⁴ See paper on Lavinia and Henry Dunbar Johnson.

¹⁵ Ohinemuri Correspondent, *Thames Advertiser*, 14 August 1877, p. 3.

¹⁶ See paper on Mereia Wikiriwhi and George Thomas Wilkinson.

¹⁷ G.T. Wilkinson to Under-Secretary, Native Office, 1 July 1879, Maori Affairs Department, MA-MLP 1, 1879/202, ANZ-W.

¹⁸ *Auckland Weekly News*, 3 April 1869, p. 10.

¹⁹ *Auckland Weekly News*, 1 April 1871, p. 6.

²⁰ James Mackay to Minister for Public Works, 24 January 1872, *AJHR*, 1873, G-8, p. 4; James Mackay, 'Blocks under negotiation, but price not finally arranged', 24 March 1873, *AJHR*, 1873, G-8, p. 13; *Thames Advertiser*, 7 July 1874, p. 2.

²¹ *Thames Advertiser*, 27 October 1873, p. 2.

²² James Mackay to D.A. Tole, 16 January 1877, *AJHR*, 1878, D-8, p. 3.

²³ Crown Purchase of Te Aroha Block, 28 August 1878, Lands and Survey Department, ABWN 8102, W 5279, box 109, AUC 1302, ANZ-W.

CONFLICTS OVER OWNERSHIP

In 1898, James Mackay summarized the many conflicts between Ngati Maru and Ngati Haua over occupying and cultivating Te Aroha, which sometimes caused its abandonment:

The lands in the neighbourhood of Te Aroha were originally occupied by the tribes who were conquered and nearly exterminated by the Ngatimaru of Hauraki, the Ngaiterangi of Tauranga, and the Waikato of Central Waikato. The western side of the range became the property of the Ngatimaru tribe, the eastern side of the Ngaiterangi tribe, and the lands to the south-west extending towards Matamata, Hamilton, and Cambridge, that of the Ngatihaua division of Waikato.

Murders, and wars resulting from them and other causes, were of frequent occurrence between the three tribes above-mentioned. The Ngaiterangi generally allied themselves with the Waikato tribes, as against the Ngatimaru of Hauraki. The Ngatimaru, however, continued in occupation of the western side of Te Aroha for several generations.

The Ngapuhi invasion of 1821 caused Ngati Maru to settle near the site of the future Cambridge.²⁴ According to evidence given by Mapuna Turner to the Waitangi Tribunal, citing 'oral tradition among Ngati Rahiri Tumutumu', as the Te Aroha hapu now calls itself, 'we refused and chose not to go with the rest. We sought protection from the mountain, the ngahere (bush) and in the swamps. I say protection because we knew the area well'.²⁵ Apart from this claim, there is no evidence that Ngati Rahiri remained there, and there were many statements by contemporaries that they had joined the exodus from Hauraki, as shown later.

Mackay wrote that Ngati Haua became 'jealous and suspicious of the lengthened occupation of their lands' by the Marutuahu tribes, culminating in the battle of Taumatawiwi, near Maungatautari mountain, in 1830.²⁶ He omitted the murders and battles that had marked this period of jealousy

²⁴ James Mackay, 'Te Aroha. A Historical Perspective', *Auckland Weekly News*, 4 June 1898, p. 8.

²⁵ Waitangi Tribunal, *The Hauraki Report*, vol. 3, p. 905.

²⁶ James Mackay, 'Te Aroha. A Historical Perspective', *Auckland Weekly News*, 4 June 1898, p. 8.

and suspicion as Ngati Maru tried to take over the land of its hosts.²⁷ In this battle, Ngati Haua, aided by Ngaiterangi, in Mackay's opinion 'partially defeated the Thames tribes', who returned to Hauraki.²⁸ But both sides claimed victory.²⁹ The Ngati Maru pa, Haowhenua, near the riverside battle site, was on the lower slopes of Maungatautari, and was the most important about 20 constructed by the Hauraki tribes in Ngati Haua territory after being given sanctuary.³⁰ Its name meant 'to make a clean sweep of the land', an ominous message to Ngati Raukawa, the local hapu, and it was reputedly 'one of the largest pa ever built'.³¹ One early historian, Thomas Wayth Gudgeon, argued that Ngati Maru 'would unquestionably have won the day had not their ammunition failed them'. After falling back, 'in good order', to Haowhenua, they obtained more ammunition and 'again sallied out and drove Waikato back some distance'. Despite no decisive result being achieved by sunset, they had killed the first and last men who died 'and in the final struggle had driven back their foes in confusion'.³² According to John White, an authority on Maori customs,

those last killed in a battle are called a huka. As the Nga-ti-maru had obtained the huka, it was (according to ancient custom) thought much of; and though the act of holding the field of battle

²⁷ See C.W. Vennell, 'The Battle of Taumatawiwi', in F.L. Phillips, *Landmarks of Tainui*, vol. 1 (Otorohanga, 1989), pp. 163-164; Angela Ballara, *Taua: "Musket wars," "land wars" or tikanga? Warfare in Maori society in the early nineteenth century* (Auckland, 2003), pp. 243-245.

²⁸ James Mackay, 'Te Aroha. A Historical Perspective', *Auckland Weekly News*, 4 June 1898, p. 8.

²⁹ For the best account of the battle and its aftermath see R.C.J. Stone, *From Tamaki-Makau-Rau to Auckland* (Auckland, 2001), pp. 114-123; see also Ballara, *Taua*, pp. 245-246; for details of the battle itself and a very useful map of the battle site, see R.D. Crosby, *The Musket Wars: A history of inter-iwi conflict 1806-45* (Auckland, 1999), pp. 219-223.

³⁰ Taimoana Turoa, *Te Takoto o te Whenua o Hauraki: Hauraki landmarks* (Auckland, 2000), p. 234; for more details of its location, see John White, *The Ancient History of the Maori, and his Mythology and Traditions*, vol. 5 (Wellington, 1888), p. 191.

³¹ Ballara, *Taua*, p. 243.

³² T.W. Gudgeon, *The History and Doings of the Maoris, from the Year 1820 to the Signing of the Treaty of Waitangi in 1840* (Auckland, 1885), pp. 88-89.

is much thought of, the huka is proof of a brave deed in battle, and a good omen in regard to power in war at a future time.³³

Ngati Maru had lost far fewer warriors than their opponents, although accounts sympathetic to Ngati Haua disagreed.³⁴ Te Waharoa,³⁵ who commanded Ngati Haua and their Waikato supporters, initiated the negotiations after fighting had ceased for the day. Badly wounded and fearing another attack, he had the bodies of his fallen warriors hastily burnt to prevent their being captured and eaten, and then, acting as a victor, requested a korero. At it, one Ngati Maru rangatira, when observing the burning bodies, asked him: 'Why are you spoiling my provisions?', implying that another day's battle could bring another outcome. Te Waharoa was terse: 'You must leave my country and return to Hauraki'. In reply, a Ngati Maru emissary asked: 'How am I to get away?', meaning without his tribe being attacked. Te Waharoa replied, 'I will lead you', meaning he would guide or escort them.³⁶ Accordingly, Ngati Maru agreed to depart, escorted by prominent Ngati Haua as a sign of good faith that they would not be attacked.³⁷

As Mackay recounted in his summary of events after Taumatawiwi,

Ngatimaru and Ngatihaua had a few desultory fights and quarrels, and on one occasion a very large force of the former besieged the pa of Te Waharoa at Matamata, for a considerable period, but were unable to effect its capture. The Ngatimaru, with the exception of a few people of the Ngatikopirimaui (a remnant of one of the original tribes), ceased to occupy the Aroha district, and the Ngatihaua deserted Matamata for some time. In 1842, Taraia, of the Thames, made a raid on the Ngaiterangi at Ongare, near Katikati ... surprised and killed several of them, and

³³ White, p. 252; for fuller and varied accounts of the battle, see pp. 260-270.

³⁴ Leslie G. Kelly, *Tainui: The story of Hoturoa and his descendents* (Auckland, 1949), p. 385; J.A. Wilson, *The Story of Te Waharoa: A chapter in early New Zealand history* (Auckland, 1866), pp. 12-14; Vennell, pp. 164-169. W. Welch, 'The Waterloo of the Waikato, Fought in 1830, and its Effects on the After-enacted Land Laws of that Part of the North Island', *Transactions of the New Zealand Institute*, vol. 42 (1909), pp. 114-118, largely repeats the account in Wilson, but has a useful map of the battlefield on p. 115.

³⁵ See Evelyn Stokes, 'Te Waharoa', *Dictionary of New Zealand Biography: vol. 1: 1769-1869* (Wellington, 1990), pp. 514-515.

³⁶ Gudgeon, p. 89; see also Kelly, p. 385, and different version in White, p. 193.

³⁷ Gudgeon, p. 89; White, p. 270; Kelly, p. 386; Turoa, p. 235.

celebrated the last cannibal feast held in New Zealand. An armed peace then ensued, which existed up to the time of the election of Potatau as King, and was then formally made between the three tribes.³⁸

Apart from Taumatawiwi, little has been recorded about these inter-tribal conflicts, and their locations (and, sometimes, spelling), dates, and sequence are confused. Two leading Ngati Rahiri rangatira, Te Karauna Hou and Te Mokena Hou,³⁹ in 1871 listed them in their evidence to the land court:

The fights came in this order

1. Taumatawiwi
2. Matamata and Kawehikiki
3. Hauarahi
4. Waiharakeke
5. Te Uira
6. Ongare.⁴⁰

Gudgeon wrote that, after Ngati Maru re-established themselves in Hauraki, they conducted ‘violent and successful guerrilla warfare’ against the Waikato tribes’ outposts, listing the main battles after Taumatawiwi as (in sequence) Waiharakeke, Matamata, Kawehitiki,⁴¹ and Ongare.⁴² Led by Taraia Ngakuti,⁴³ who had not fought at Taumatawiwi, these ‘sharp sorties’ were meant to keep Ngati Haua away from Te Aroha, the boundary between them.⁴⁴ According to White, Te Waharoa of Ngati Haua was advancing on Te Aroha in late 1831 when diverted from his objective by the murder of his cousin.⁴⁵

³⁸ James Mackay, ‘Te Aroha. A Historical Retrospect’, *Auckland Weekly News*, 4 June 1898, p. 8.

³⁹ See papers on their lives.

⁴⁰ Maori Land Court, Auckland Minute Book no. 2, pp. 313, 332.

⁴¹ His version of the name was Kameheitike; another spelling was Kaweheitiki: Phillips, *Landmarks of Tainui*, pp. 164, 167.

⁴² Gudgeon, p. 90; see also Ballara, *Taua*, pp. 247-248.

⁴³ See Angela Ballara, ‘Taraia Ngakuti Te Tumuhuia’, *Dictionary of New Zealand Biography: vol. 1*, pp. 427-428; for a portrait and a photograph taken in c.1860, see Turoa, after p. 160.

⁴⁴ Turoa, p. 235.

⁴⁵ White, p. 194.

At the fight at Waiharakeke in 1832 Taraia killed several people.⁴⁶ The Matamata battle, also in that year, pitted a combined force of Ngati Maru, Ngati Paoa, and Nga Puhi against Ngati Haua. According to Percy Smith, 'considerable fighting took place, ending in victory for the invaders'. Afterwards, Ngati Paoa and Nga Puhi 'paddled up the Piako and there took the Kawe-heitiki *pa*'.⁴⁷ According to White, the attacks on both Matamata and Kawehitiki were unsuccessful;⁴⁸ Mokena Hou, who participated, confirmed their failure.⁴⁹ The last battle, at Ongare, a disputed area on the western side of the Tauranga harbour near Katikati, occurred in 1842, when Taraia's attacking party killed and ate several Ngaiterangi defenders in what was officially the last cannibal feast in New Zealand. Some Ngaiterangi were taken back to Hauraki as captives.⁵⁰ Taraia had some reason for his cannibalism: his mother had been eaten by Ngaiterangi.⁵¹

Another battle, not listed by Karauna or Mokena, occurred in 1838, when members of a small party of Ngati Haua were killed at Horotiu, near the later settlement of Cambridge.⁵² The endless reprisals were replaced by peace because of the acceptance of Christianity, the land court was told.⁵³

THE RUAKAKA BLOCK

This portion was treated separately from the main Aroha Block, which surrounded it. In February 1869 a sitting of the court at Matamata heard the rival claims of Ngati Haua and Ngati Maru to these 415 acres. Te Keone Te Wharenuui had ordered the land surveyed, pointed out the boundaries,

⁴⁶ White, pp. 271-272; see also p. 253.

⁴⁷ S. Percy Smith, *Maori Wars of the Nineteenth Century: The struggle of the northern against the southern Maori tribes prior to the colonisation of New Zealand in 1840*, 2 ed. (Christchurch, 1910), pp. 445-446.

⁴⁸ White, pp. 259-260.

⁴⁹ Maori Land Court, Waikato Minute Book no. 2, p. 218; Auckland Minute Book no. 2, pp. 330-331.

⁵⁰ Turoa, pp. 236-237; Ballara, *Taua*, pp. 271-272; James Cowan, *Legends of the Maori* (Wellington, 1930), vol. 1, pp. 150-152; Crosby, pp. 359-361.

⁵¹ Ballara, *Taua*, p. 271.

⁵² *Centennial History of Matamata Plains*, compiled by C.W. Vennell and others (Matamata, 1951), p. 27.

⁵³ For example, Maori Land Court, Hauraki Minute Book no. 10, pp. 295, 299-300, 303, 352.

and assisted the survey, which was not opposed.⁵⁴ His affiliations were to Ngaiterangi, Ngati Haua, Ngati Hue, Ngati Kiri, and Ngati Tekura, but not Ngati Tumutumu, the hapu of Ngati Maru that occupied the Aroha Block. Born at Matamata, he went to live on the land in 1855 with his father Parakauere (recorded as Parakauwere) and an elder brother, who had occupied it previously.⁵⁵

Te Keepa Te Wharau,⁵⁶ of Ngati Maru, was the first counter-claimant to give evidence, basing this iwi's claim of ownership on ancestry:

This land formerly belonged to Ngatihue they were killed by my ancestor Te Ruinga who took possession of the land. When Te Wharenuī came to take possession of the land, we objected – we allowed them to go and live there to rear pigs – the survey was done stealthily – if we had seen the survey we should have driven them and the surveyor off the land.

The 'real owners' were Ngati Tumutumu, who had 'intermarried with Ngatimarū and are engrafted into the tribe'.⁵⁷ Mokena Hou also gave evidence of the ancestral claim, stating that 'Ngatiteruinga continually occupied this land. Te Wharenuī's house is near Te Ahi-tui a pa of theirs'. When Mokena came to the district in 1868, he found 'Te Wharenuī had cultivations there – I have continually threatened to burn his house down. He said that he was only squatting ... Te Wharenuī has not lived here a long time he has not taken a single crop out of the ground'.⁵⁸ Te Karauna Hou listed many others besides Te Wharenuī with claims.⁵⁹

Tauaki, a Ngati Hue of Ngati Kiri, gave evidence that her ancestors had lived on the land before she did. 'Te Wharenuī was left there by our matuas', or parents.⁶⁰ She wanted Te Wharenuī to conduct the claim 'as I do not know the ways of Europeans'. Amongst those she listed as having a claim was Te Karauna Hou. Parakauere, now dead, was her brother; 'we were Kai Tiaki [guardians]⁶¹ of the land'.⁶²

⁵⁴ Maori Land Court, Waikato Minute Book no. 2, pp. 257-258.

⁵⁵ Maori Land Court, Waikato Minute Book no. 2, p. 258.

⁵⁶ See paper on his life.

⁵⁷ Maori Land Court, Waikato Minute Book no. 2, p. 259.

⁵⁸ Maori Land Court, Waikato Minute Book no. 2, pp. 259-260.

⁵⁹ Maori Land Court, Waikato Minute Book no. 2, p. 260.

⁶⁰ P.M. Ryan, *The New Dictionary of Modern Maori* (Auckland, 1974), p. 25.

⁶¹ Ryan, pp. 16, 44.

Three other witnesses gave brief evidence before Te Wharenui's counsel explained that his claim was 'from the original stock Ngatikopirimau and Parakauere was the only person living on the land for a long time'. His claim was also through conquest by Ngati Haua: 'this portion was given to him by Te Waharoa on the division of the land'.⁶³ Te Wharenui then expanded on his earlier evidence. 'Parakauere and his people were the only people who lived on the land', with others, 'after the Ngatimaru left the district'. When Parakauere was dying, he gave the land to Te Wharenui and his sister, Hera Whakaawa, whose daughter Charlotte was fathered by a Pakeha Maori, William Nicholls.⁶⁴ (Parakauere's will was produced.) Te Wharenui had first cultivated the land in 1855, leaving to live at Tauranga during the war in Taranaki and not returning until 1868. 'I found no one there and after they saw me there they commenced to [word missing]. I am the only person who lived there'. He surveyed the land 'clandestinely' because he was 'surrounded by Hauhaus'. The only claimants he recognized as having valid claims were Tauaki, Charlotte Nicholls, and Hone Wetea: 'there are other claimants but I wish to put them out and put them on the large Block', meaning the Aroha Block. Tutuki, a leading rangatira of Te Aroha, 'did disturb me – but I answered him that the matter would be settled in the Court – I did not hear them say that they would burn my house – I did hear Tutuki say that I was not to go there'.⁶⁵

Heremaia Ngaweke, a witness to his father Parakauere's will, gave evidence that Parakauere had lived on the land 'from the time that Ngatimaru fled from Waikato', meaning after the battle of Taumatawiwi in 1830. He recollected Te Wharenui coming to cultivate the land during the year after the will was made. Since his father's death, Heremaia had lived on the land, unlike Ngati Maru, who neither grew food there nor caught eels. Wiremu Tamihana of Ngati Haua 'had pigs running there'. When questioned by Ngati Maru, Heremaia insisted that only Ngati Haua had lived on this land.

I acknowledge that the whole district including Te Ruakaka was used as a pig run by Ngatimaru – I acknowledge that I was driven away from Matauraura [recorded as Matauaurau] on account of your meddling with Te Tuakaka (i e planting potatoes).

⁶² Maori Land Court, Waikato Minute Book no. 2, pp. 260-261.

⁶³ Maori Land Court, Waikato Minute Book no. 2, pp. 261-262.

⁶⁴ See papers on William Nicholls and John William Richard Guilding.

⁶⁵ Maori Land Court, Waikato Minute Book no. 2, pp. 262-263.

Tutuki did this – My rahui [reserve]⁶⁶ at Whakapipi was broken.⁶⁷

(Whakapipi, behind the later Hot Springs Domain, was known to Pakeha as Bald Spur.) He had seen the clearing made by Ngati Maru at Matauraura but had not seen their cultivations at Omahu. ‘I have seen the Ngatimaru’s and Te Wharenuī’s houses at Ruakaka’.⁶⁸

The next to give evidence was Harete, or Charlotte, Guilding, daughter of William Nicholls. Married to John William Richard Guilding,⁶⁹ as a daughter of Hera Whakaawa, Te Wharenuī’s sister, she claimed the land through her mother, but was ‘willing that it should be put in Wharenuī’s name’. She confirmed that ‘no one besides our relations’ had lived there.

I resided there before Tutuki and others of Ngatimaru came there – I did not see the cultivations at Matauraura – The Ngatimaru have no pigs running on Te Ruakaka – The Ngatimaru houses were built after I went on the ground – The Ngatimaru have no cultivations at Ruakaka – They were not in possession when I came to Ruakaka – Some are living there now.⁷⁰

Pepene Te Paopao, who lived nearby,⁷¹ ‘did not fly before the Ngapuhi, I stayed on the land’ after the massacre at Totara pa at Thames in 1821. He recalled Parakauere living there; ‘his peach trees are now growing there’. Ngati Maru returned later, cultivating but not living permanently ‘at Matauraura and on to Te Ruakaka’. The latter was owned by ‘many tribes’, but had ‘been served like the goods of a man which are divided amongst his children’. The portion surveyed belonged to Parakauere alone. ‘Parakauere was the beginning and the end - He owned it continually from his ancestors who lived and died on the land, therefore I have said he was the commencement and end of it’.⁷²

The court decided that, whereas Ngati Maru had ‘asserted a general tribal title’, it was clear that Parakauere had ‘held undisturbed possession

⁶⁶ Ryan, p. 36.

⁶⁷ Maori Land Court, Waikato Minute Book no. 2, pp. 263-264.

⁶⁸ Maori Land Court, Waikato Minute Book no. 2, p. 265.

⁶⁹ See paper on his life.

⁷⁰ Maori Land Court, Waikato Minute Book no. 2, p. 265.

⁷¹ Maori Land Court, Waikato Minute Book no. 2, p. 262.

⁷² Maori Land Court, Waikato Minute Book no. 2, pp. 265-266.

to the time of his death'. Accordingly, the land was granted to his nearest relatives: Te Wharenuī, Tauaki, Charlotte Guilding, and Hone Watea.⁷³ This decision caused such anger amongst Ngati Maru that James Mackay applied for a rehearing, which was granted, but the Order in Council authorizing one omitted to mention Ruakaka,⁷⁴ and because of this oversight the court decided it lacked the power to re-hear it. The chief judge, Francis Dent Fenton,⁷⁵ considered it 'probable that the Ngatimarū will be content to let things remain as they are'.⁷⁶ Mackay, present in Fenton's office when Te Wharenuī and Charlotte Guilding applied for the certificate of title, told them it had to be re-heard, and no grant was issued.⁷⁷

When in the 1871 rehearing of the Aroha Block the court ruled that Te Wharenuī had no claim to it through ancestry, having lived on the land 'merely as the guest of Parakauere',⁷⁸ it implied that Ngati Maru also owned Ruakaka. When asked what Ngati Maru would do, Mackay thought the block was not worth the expense of a rehearing and noted that a special act of parliament was required but quoted Ngati Maru saying 'they will never give up Te Ruakaka'. By mid-1872 the land was 'occupied and cultivated by some of the Ngatimarū of Shortland, who hold it antagonistically to the grantees' and had 'houses and cultivations on it'.⁷⁹ As an indication of how intermingled some hapu were, the children of Tauaki, who succeeded their mother as owners of the block in 1875, gave their hapu as Ngati Rahiri,⁸⁰ otherwise Ngati Tumutumu, the owners of Te Aroha, and part of Ngati Maru.

⁷³ Maori Land Court, Waikato Minute Book no. 2, p. 305.

⁷⁴ James Mackay to Daniel Pollen, 24 June 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁷⁵ See *Cyclopedia of New Zealand*, vol. 2, pp. 94, 1018; W.L. Renwick, 'Francis Dart Fenton', *The Dictionary of New Zealand Biography: vol. 1: 1869-1879* (Wellington, 1990), pp. 121-123.

⁷⁶ F.D. Fenton to Daniel Pollen, 18 April 1871, Native Land Court, Memoranda Book 1867-1879, p. 75, Maori Affairs Department, BAIE 4307/1a, ANZ-A.

⁷⁷ James Mackay to Daniel Pollen, 24 June 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁷⁸ F.D. Fenton, *Important Judgments Delivered in the Compensation Court and Native Land Court, 1866-1879* (Auckland, 1879), p. 133; name recorded as Parakawere.

⁷⁹ James Mackay to Daniel Pollen, 24 June 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁸⁰ Maori Land Court, Hauraki Minute Book no. 9, p. 158.

In early 1872, the Attorney General opposed issuing a Crown Grant for Ruakaka because of the decision to rehear the Aroha case, but the chief judge wanted it granted.⁸¹ Donald McLean, the Native Minister, accepted an official's advice that as 'it would be unwise and impolitic to disturb the present position of this claim, and would in all probability lead to a renewal of ill feeling between the Claimants', the grant should remain unexecuted.⁸² Possibly because his case had been undermined by the rehearing of the Aroha block, by late June Te Wharenuui had sold his interest to Pakeha. Daniel Pollen, the general government's representative in Auckland, delayed approving this sale, preferring the government to buy out all the owners to stop private individuals acquiring the land.⁸³ Three years later, Fenton recommended that Ruakaka 'ought not to pass into European hands' until the Aroha Block was 'decided upon'.⁸⁴

According to Mackay's 1897 recollection, 'it was in 1869 or 1870 that £4 an acre was offered for Ruakaka' but refused by its owners. That portion not included in the township by 1897 was by then 'worth from £10 to £12' an acre.⁸⁵ In 1872, Mackay had written that Ruakaka was 'a valuable property and likely to be the site of a Town if that country is opened up for mining'.⁸⁶ Five and a half years later, William Archibald Murray,⁸⁷ who had acquired a large estate in Piako in the early 1870s and had wanted to buy Ruakaka in 1875,⁸⁸ inquired about obtaining a Crown Grant, to be informed

⁸¹ Memorandum by N. Nolan, 30 March 1872; R.S. Bush to Donald McLean, 6 May 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁸² H.T. Kemp to Donald McLean, 21 May 1872; memorandum by Donald McLean, 27 June 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W. For Kemp's official position and experience in Maori issues, see *A Dictionary of New Zealand Biography: vol. 1: A-L*, ed. G.H. Scholefield (Wellington, 1940), p. 456.

⁸³ Daniel Pollen to Donald McLean, 27 June 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁸⁴ Memorandum by F.D. Fenton, 8 September 1875, Maori Land Court, Memoranda Book 1867-1879, p. 156, BAIE 4307/1a, ANZ-A.

⁸⁵ Maori Land Court, Hauraki Minute Book no. 44, pp. 232-233.

⁸⁶ James Mackay to Daniel Pollen, 24 June 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁸⁷ See paper on his life.

⁸⁸ For his Piako estate, see 'Piako Swamp Sale Committee', *AJHR*, 1875, I-6, pp. 11-13; *Thames Advertiser*, 14 April 1874, p. 3, 13 May 1875, p. 3, 19 July 1880, p. 3; for his

that, as it was occupied by Ngati Rahiri, one could not be issued without the use of force.⁸⁹ At the same time another land speculator, Samuel Stephenson of Thames, was trying to purchase it.⁹⁰ He would claim to have purchased it with an Auckland, James Burt, in about 1870.⁹² He also claimed to be trying to provide freehold land for settlers.⁹³ In August 1879 Stephenson was accused of being involved in ‘certain not very straight land transactions in the Upper Thames’.⁹⁴ He responded that his dealings were ‘fair and straightforward, made openly and above board, and according to the strict letter of the law’, despite which over the past nine years several governments had ‘systematically deprived’ him of his acquisitions. He was ‘still debarred from occupying that which I have lawfully bought and dearly paid for’, and intended petitioning parliament for ‘redress and compensation’.⁹⁵ The following day a newspaper explained that he was attempting to obtain land at Te Aroha.⁹⁶ He did obtain it, for in October he chartered a vessel to bring potential purchasers to inspect ‘the proposed site of the new township of Ruakaka’.⁹⁷

THE FIRST HEARING OF THE AROHA BLOCK

According to James Mackay, at an unstated date Ngati Haua ‘surreptitiously surveyed the Aroha block and then applied to the court ‘to investigate their title’.⁹⁸ Late in September 1868, after receiving a letter from Te Hira ‘about the boundary line of the gold at Omaha’, Mackay visited Ohinemuri. During a korero with some of the rangatira, he

attempts to acquire Ruakaka and other blocks in 1875, see W.A. Murray to C.E. Houpeton, 16 March 1875, Maori Affairs Department, MA-MLP 1, 1875/296, ANZ-W.

⁸⁹ Under-Secretary, Native Department, to W.A. Murray, 19 December 1877, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁹⁰ ‘Theodolite’, ‘On the Survey of Te Aroha’, *Te Aroha News*, 18 February 1911, p. 3.

⁹¹ See *New Zealand Herald*, 31 January 1908, p. 5; James Cowan, ‘“Burt’s Farm.” Story of a South Auckland Homestead’, *Auckland Star*, 22 April 1922, p. 17.

⁹² *Thames Advertiser*, 19 January 1880, p. 2.

⁹³ Letter from Samuel Stephenson, *Thames Advertiser*, 21 December 1876, p. 3.

⁹⁴ *Thames Advertiser*, 11 August 1879, p. 3.

⁹⁵ Letter from Samuel Stephenson, *Thames Advertiser*, 18 August 1879, p. 3.

⁹⁶ *Thames Advertiser*, 19 August 1879, p. 3.

⁹⁷ *Thames Advertiser*, 7 October 1879, p. 2, 9 October 1879, p. 2.

⁹⁸ *Auckland Weekly News*, 4 June 1898, p. 8.

mentioned 'that he had been told that the Ngatihaua purposed putting their lands at the Aroha through the Native Lands Court, with the view of leasing the same to the pakehas'. Wirope Hoterene Taipari responded: 'I want the Court of the lands of the Aroha to be held at Hauraki. I do not see why land that belongs to Hauraki should have the Court about titles to it held at Waikato'. Mokena agreed.⁹⁹ Ngati Maru 'looked darkly' when they learnt that a hearing was to be held at Cambridge in November, and sent two representatives to request it be adjourned to Hauraki. They took a message from Mackay that he had told them not to appear because Shortland was more convenient for both tribes, and it was 'very questionable' if Ngati Maru would be permitted to travel to Cambridge through the Hauhau part of Ngati Haua territory. The dispute was 'of vast importance' because the two tribes were antagonistic, the land was not surveyed, 'great interests are involved and great things may be the result'. He did not want any investigation without Ngati Maru being present. Although the court 'reluctantly' granted an adjournment until the following February, it rejected Mackay's reasons for holding the hearing at Shortland and selected Matamata for it.¹⁰⁰ According to Tinipoaka, a rangatira of Ngati Tamatera, when giving evidence against Ngati Rahiri, otherwise Ngati Tumutumu, in a later hearing, 'none of the Hauraki tribes went to this investigation as they were angry' that it was being held at Matamata.

It had been decided at a runanga here in which N'tumutumu took part that the Court should be requested to hear the case at Hauraki. Piniha Marutuahu made this application to the Court but N'haua would not listen to it. Endeavour was made to induce N'tumutumu not to go to the Court but in vain. Tukukino went after you as far as Hineroa for that purpose. They persisted in going there by themselves in the hopes that the land would be awarded to them alone.¹⁰¹

Some Ngati Tamatera rangatira went 'as far as Mataura; they were stopped there by the rain' for a week. 'A person told us there that the investigation was over so we returned'.¹⁰² Hirawa Te Moananui, also of Ngati Tamatera, also claimed that Ngati Tumutumu and Ngati Maru 'did

⁹⁹ *Auckland Weekly News*, 3 October 1868, p. 9.

¹⁰⁰ Maori Land Court, Waikato Minute Book no. 2, pp. 96-96a, 100-101.

¹⁰¹ Maori Land Court, Hauraki Minute Book no. 10, p. 460.

¹⁰² Maori Land Court, Hauraki Minute Book no. 10, p. 461.

not attend to' Meha Te Moananui's order that they should not go to Matamata but 'persisted in going' because they thought that, even should the land be granted to Ngati Haua, 'they would not be allowed to retain it – they would have fought for it'.¹⁰³ Another rangatira stated that Meha told Ngati Tamatera not to attend because he anticipated that Ngati Tumutumu would not win their case.¹⁰⁴

John Rogan, a former land purchase officer and magistrate who was the first president of the land court,¹⁰⁵ heard the case, assisted by an assessor, Hemi Tautari, from the Bay of Islands.¹⁰⁶ Thomas Bannatyne Gillies, a lawyer who later became Superintendent of Auckland Province,¹⁰⁷ appeared for Ngati Haua, but Ngati Maru had no counsel at first. On the first day of the hearing, 23 February 1869, several Ngati Maru objected to the case proceeding, but Rogan ruled against them because they had not given a reason. 'Opportunity would be given to the objectors to oppose the claim of Ngatihaua and defend their own titles if they wished – if they chose otherwise they must follow their own course'.¹⁰⁸

The first to speak was Te Raihi, who described the boundaries of the block and claimed it for all of Ngati Haua. The court then adjourned 'to enable the Ngatimaru to obtain the assistance' of Charles Oliver Bond Davis¹⁰⁹ and William White.¹¹⁰ As a correspondent reported, having arrived a day late, when 'called on to prove their case', Ngati Maru 'seemed so much at sea that the Court adjourned for an hour and a-half, to give them an opportunity of getting the assistance of an agent'.¹¹¹ Ngati Maru later explained their lack of preparedness:

¹⁰³ Maori Land Court, Hauraki Minute Book no. 10, pp. 464-465.

¹⁰⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 467.

¹⁰⁵ See David V. Williams, *'Te Kooti Tanga Whenua': The Native Land Court 1864-1909* (Wellington, 1999), pp. 79, 153.

¹⁰⁶ Note by Barstow, to memorandum of Hemi Tautari, n.d. [1871], 'Appendix to Colonel Haultain's Report on the Working of the Native Land Court Acts', *AJHR*, 1871, A-2A, pp. 29-30.

¹⁰⁷ See Hugh Rennie, 'Thomas Bannatyne Gillies', *Dictionary of New Zealand Biography: vol. 1*, pp. 149-150.

¹⁰⁸ Maori Land Court, Waikato Minute Book no. 2, pp. 211-213.

¹⁰⁹ See Alan Ward, 'Charles Oliver Bond Davis', *Dictionary of New Zealand Biography: vol. 1*, pp. 99-100.

¹¹⁰ Maori Land Court, Waikato Minute Book no. 2, pp. 214-215.

¹¹¹ A Correspondent, *Auckland Weekly News*, 13 March 1869, p. 17.

At that time we were in much trouble, as we were holding a great meeting at Ohinemuri from the commencement of February to the 15th of that month, respecting the gold there, Mr Mackay held that meeting about the gold of Ohinemuri. That meeting being ended, we were busy about our crops which required attention at our own homes, and some of us also were ill with the new diseases of the Europeans (whooping cough). Therefore we could not proceed to the Court at that distant place Matamata.¹¹²

Neither Davis nor White was a lawyer, which Ngati Maru later believed undermined their case.¹¹³ After this adjournment, Mokena Hou and Hemi Kari, both of Ngati Maru, provided more detailed versions of the boundaries.¹¹⁴ Mokena listed all the hapu which had 'held this land from ancient days down to the invasion of Ngapuhi': Ngati Maru, Ngati Tumutumu, Ngati Te Ruinga, Ngati Tau, Ngati Koropongo, Ngati Te Atua, Ngati Haumia, Ngati Te Kaha, Ngati Whare, Ngati Whanga, Ngati Te Aute, Ngati Te Ahumua, Ngati Puku, Ngati Tamatera 'on Taraia's side', Ngati Karaua, Ngati Ua, Te Huarua, Ngati Kopirimau, Ngati Hue, 'and some of Ngatipaeahi'.¹¹⁵ After the Ngapuhi invasion, these hapu 'used to come backwards & forwards from Hauraki to Te Aroha'. At the present time, 17 named men and women as well as himself '& others' were 'living at the base of Te Aroha'.¹¹⁶ Mokena gave his whakapapa and explained his experiences since the Ngapuhi invasion, as detailed in the chapter on his life, and denied the claims of Ngati Haua and others to the block, listing 20 burial places within it.¹¹⁷ He considered that Ngati Haua desired to obtain the land 'because their own land is gone – This is the first time that any attempt has been made to eject us after our return and they do so now to make money of it'.¹¹⁸

¹¹² Petition of Meha Te Moananui and 72 others to Governor, 30 March 1869, Legislative Department, LE 1, 1869/133, ANZ-W.

¹¹³ For instance, *Thames Advertiser*, 17 March 1877, p. 3; Maori Land Court, Hauraki Minute Book no. 10, p. 395.

¹¹⁴ Maori Land Court, Waikato Minute Book no. 2, pp. 215-216.

¹¹⁵ Maori Land Court, Waikato Minute Book no. 2, p. 216.

¹¹⁶ Maori Land Court, Waikato Minute Book no. 2, pp. 216-217.

¹¹⁷ Maori Land Court, Waikato Minute Book no. 2, pp. 217-218.

¹¹⁸ Maori Land Court, Waikato Minute Book no. 2, p. 218.

Under cross-examination, Mokena provided the names of those who had occupied the land since the 1840s and of those who took 'permanent possession' on 18 August 1868 'in opposition to Te Wharenuī'. He denied seeing any houses or cultivations apart from those of some Ngati Haua who, driven from Waikato by the government, had been permitted by Ngati Maru to use their eel weirs. These Hauhau were 'squatters' who acknowledged that they could live there only temporarily.¹¹⁹

On the second day, Ngati Maru produced nine witnesses to prove that their ancestors had owned this land, which had never been conquered by Ngati Haua.¹²⁰ Hemi Kari, who was at Taumatawiwi, considered Ngati Haua were 'overpowered' and 'subdued' in this battle, Ngati Maru leaving only 'because we had no powder'. He named 13 'eel pas' Ngati Maru had constructed within the block, whereas Ngati Haua had not made any nor had any settlements.¹²¹ Next, Te Karauna Hou described his involvement in Taumatawiwi and later skirmishes with Ngati Haua,¹²² as detailed in the chapter on his life. He insisted that even when Ngati Maru did not live at Te Aroha, neither did Ngati Haua, the fires seen being of 'travellers going to Tauranga'.¹²³

Paratene Te Kaharunga, 'a Hauhau of the Ngatihaua' who was living on part of the block, said Ngati Haua had no claim to the land 'except where we are now, Oturawaru, including the Maungakawa'. Along with the other 'squatters' he had lived there since the Waikato War. 'There are 100 of us, all Hauhaus; they all say that they are squatters – the land belongs to Ngatimarū – As we have relinquished our claim the whole of the Ngatihaua tribe ought to do so'. Ngati Haua's 'squattening travelling parties' had lived at Waiharakeke. Having fought at Taumatawiwi, he said Ngati Maru was defeated, but confirmed Karauna's account of the aftermath; 'Te Waharoa's fire was not lighted at Te Aroha after the fight at Taumatawiwi', and Waiharakeke was 'debatable ground'.¹²⁴

¹¹⁹ Maori Land Court, Waikato Minute Book no. 2, pp. 219-220.

¹²⁰ This was the summary provided by 'A Correspondent', *Auckland Weekly News*, 13 March 1869, p. 17; for all the evidence, see Maori Land Court, Waikato Minute Book no. 2, pp. 221-236.

¹²¹ Maori Land Court, Waikato Minute Book no. 2, pp. 221-223

¹²² Maori Land Court, Waikato Minute Book no. 2, pp. 223-226.

¹²³ Maori Land Court, Waikato Minute Book no. 2, p. 225.

¹²⁴ Maori Land Court, Waikato Minute Book no. 2, pp. 226-228 [punctuation added].

Te Kepa Ringatu, another Hauhau of Ngati Haua, stated that Te Aroha belonged to Ngati Maru. 'Both sides suffered at Taumatawiwi', and when peace was made afterwards the Aroha block 'was returned by' Te Waharoa, 'the mouth piece of the tribe' who 'had previously said that he would keep it – When Te Wharau & Matiu came to Matamata Te Waharoa gave back the land saying "Ka whakahokia atu to whenua ki a koe" ',¹²⁵ meaning 'the land will be returned to you'.¹²⁶ After he repeated that Ngati Haua living there were 'only squatters', under cross-examination by Gillies he explained that, when Ngati Maru returned to Hauraki after Taumatawiwi,

Te Waharoa said that he would take Te Aroha – the occupation was that we used to go to & fro on the land – we lived at Waiharakeke - Manawaru was a pig run of ours – We occupied the land on the authority of the word of the Waharoa – We were living at Waiharakeke – I did not see any cultivations from there to Te Rao-o-te-papa – there were no cultivations – Ngatimaru did not occupy the land from the time of the battle of Taumatawiwi till the time Te Waharoa returned it to them – I do not wish to tell a lie – the land was not only taken by word of mouth but we divided it up from Te Rae o te papa (Kotikotia). None of Ngatihaua remained on the land, nor do I know if Ngatimaru did so – but when the Missionaries came Kemi Kari came on the land.¹²⁷

(The Te Rao-o-te-papa block is at present-day Tirohia, between Paeroa and Te Aroha.) The next Ngati Haua witness, a Hauhau, agreed that land had been returned to Ngati Maru, and claimed all Ngati Haua living on portions of the block 'were related to Ngatimaru'. Te Waharoa had taken the land 'on account of Taumatawiwi', and Ngati Haua 'divided' it. 'We occupied the land by running pigs – catching eels &c we killed their pigs but carefully concealed the fact'. Then the owner of part of the land invited them to dig for gum.¹²⁸

Parata Te Mapu, of Ngati Maru, justified his claim through ancestry. Born after Taumatawiwi, his family had occupied eight named portions of the block and had run pigs elsewhere. The land was occupied 'before the

¹²⁵ Maori Land Court, Waikato Minute Book no. 2, pp. 228-229.

¹²⁶ Tom Roa to Philip Hart, 3 February 2004, email.

¹²⁷ Maori Land Court, Waikato Minute Book no. 2, pp. 229-230.

¹²⁸ Maori Land Court, Waikato Minute Book no. 2, pp. 230-231.

Governor's time', meaning 1840. 'We have been continually in the habit of going to & fro, always leaving persons to look after the place, to the present time'. Ngati Haua never lived on the land, although some Ngati Haua Hauhau had a settlement and occasionally used the eel weirs 'stealthily'. Replying to Gillies, he said, 'I do not know but I have heard from my elders that the land belongs to us'.¹²⁹

Wharaki, also of Ngati Maru, confirmed earlier evidence about boundaries and occupation. 'My self & Tauaru' put the Ngati Haua Hauhau on the land they occupied after their land at Tamahere was confiscated by the government, and also agreed to them digging gum. 'I was at Taumatawiwi as a child', saw the battle, and listed some of the 140 Ngati Haua and Waikato who were killed. Before Ngati Maru returned to Hauraki two months after the battle, Ngati Haua 'did not disturb' the three people he named as living at Te Aroha.¹³⁰

Timi Mihi, 'a half Cast', who seems to have been a half-caste of Ngati Tumutumu and Ngaiterangi, deposed that Ngati Tumutumu had never left Te Aroha from the time of Te Ruinga, centuries earlier, until the Ngapuhi invasion. After Taumatawiwi no other tribes lived there: 'I did not see Ngatihaua [and] we were not disturbed by Ngatihaua either by word or deed'. Even when Ngati Tumutumu went 'to Hauraki to get fish &c', they 'always left some one in possession'. He argued that Ngati Haua had no claim because they did not receive any of the money paid by the government for the Katikati block (which stretched to the peak of the mountain), as Ngati Maru did.¹³¹

Twelve Ngati Maru witnesses were examined on the third day of the hearing. The first, Hera Te Whaunga, was of both Ngati Tumutumu and Ngati Maru but with a Ngati Haua father. She confirmed the earlier Ngati Maru accounts of the skirmishes of the 1830s and gave details of good relations being restored. Te Aroha was re-occupied 'continually' after Ngapuhi left and Ngati Haua 'never said any word about taking this land'; during the inter-tribal skirmishes her family 'used to live to & fro at the Aroha and Hauraki', and 'had pigs running everywhere. During all this

¹²⁹ Maori Land Court, Waikato Minute Book no. 2, pp. 231-232.

¹³⁰ Maori Land Court, Waikato Minute Book no. 2, pp. 232-234.

¹³¹ Maori Land Court, Waikato Minute Book no. 2, pp. 234-236.

time Ngatihaua never lived there, Hore rawa! Hore rawa!!!!'¹³² This cry, which concluded her evidence, meant 'never'.¹³³

Ereatara Taraia, of Ngati Tamatera, confirmed the earlier evidence about boundaries, ownership, and battles, and gave details of the small numbers killed during the 1830s conflicts. 'After the Missionaries came Christianity was introduced amongst us – fighting was abandoned – and no payment was taken for these assaults of ours'. After the fight at Ongare 'permanent peace was made with Ngatihaua'. At the formal ceremony to mark this, 'no word was mentioned as to their claiming the Aroha – or cutting it up – or that they had taken possession of it or that they would do so'. If he had heard that Te Waharoa had claimed to have taken Te Aroha 'peace would not have been made – According to Native Custom it would not be right to lay claim to lands at the same time of making peace'. Ngati Haua were now claiming Te Aroha 'to get money'. Under cross-examination, he said that nobody was living at Te Aroha when peace was made and confirmed Kepa's evidence that Te Waharoa had returned the land to Matiu and Te Wharau.¹³⁴

Hera Putea of Ngati Teruinga was very brief, merely confirming that Ngati Tumutumu lived on the land and that Ngati Haua neither lived there nor had claimed it.¹³⁵ Keepa Te Wharau,¹³⁶ who had both Ngati Maru and Ngati Haua ancestry, claimed as a Ngati Maru, and confirmed its ownership and boundaries and that all Ngati Haua currently living there were squatters. On the second of his six visits before he settled there in 1868 nobody was living on the block. Te Wharau, who had gone with Matiu to Matamata, was his father; he denied hearing that the land was returned by Te Waharoa.¹³⁷

Hone Rangaunu of Ngati Paoa, in making a claim for his hapu, stated that Ngati Haua had no claim.¹³⁸ Rina, wife of Mokena Hou,¹³⁹ who was born on the block, gave evidence about her life, as detailed in the paper on her husband. Despite being related to Ngati Haua, she supported the case of

¹³² Maori Land Court, Waikato Minute Book no. 2, pp. 236-240.

¹³³ Ryan, p. 14.

¹³⁴ Maori Land Court, Waikato Minute Book no. 2, pp. 240-242.

¹³⁵ Maori Land Court, Waikato Minute Book no. 2, pp. 242-243.

¹³⁶ See paper on his life.

¹³⁷ Maori Land Court, Waikato Minute Book no. 2, pp. 243-244.

¹³⁸ Maori Land Court, Waikato Minute Book no. 2, p. 244.

¹³⁹ See paper on the life of Mokena Hou.

Ngati Maru and Ngati Tumutumu, her principal hapu, which had occupied the land 'from ancient days to the present time'. At the time of Taumatawiwi and during the subsequent conflicts some members of this hapu had lived at Te Aroha. When living with Ngati Haua she had 'never heard' that they claimed the land and had 'cut it up amongst them'; the first time she had heard of this was during the hearing. If Waharoa had divided the land without taking possession, it was 'the act of a thief he had no right to the land from his ancestors'.¹⁴⁰ Cross-examined by Gillies, she insisted that 'Te Waharoa never gave back the land to Ngatimaru, it was stolen and if the Ngatimaru agreed to the theft - they would not have returned to their land - Te Waharoa stole it as you would my property - The theft was this, the mana of the land was gone away to him'. She repeated this point to Davis: 'The mana was this that if you were out of the way whatever you left behind he took away. The principle was established in Te Waharoa's time and now in the time of money they have taken it away. It is only now suggested to them at the time of money to say that this land is the Waharoa's'.¹⁴¹

Erana Ketu, a Ngati Rahiri of Ngati Tumutumu, gave evidence of living on the land and repeated earlier evidence about Ngati Maru and Ngati Tumutumu ownership and Ngati Haua Hauhau being squatters permitted to live there by Tauaru. 'We are occupying the Aroha at the present time, about 20 of us'. If the land belonged to Ngati Haua 'they would have taken possession of it but they never resided on the land'.¹⁴²

Mango, a Ngati Maru who had been born at Te Aroha, confirmed earlier evidence about ownership and occupation. He 'never heard that the Waharoa said that he would take the Aroha', and stated that if a chief merely 'said that he would take and divide land it would have no effect'.¹⁴³ Asked by Gillies whether using 'eel pas' and running pigs on the land was 'taking possession', he answered that it was. 'Ngatimaru did not allow any one else to run pigs or use the eel pas that were on their land'.¹⁴⁴

Te Puke, a Hauhau with both Ngati Haua and Ngati Maru ancestry, supported the ownership of the latter, based on seeing them occupying Te Aroha whenever he visited. 'I never heard that the Ngatihaua hauhau were

¹⁴⁰ Maori Land Court, Waikato Minute Book no. 2, pp. 244-247.

¹⁴¹ Maori Land Court, Waikato Minute Book no. 2, p. 247.

¹⁴² Maori Land Court, Waikato Minute Book no. 2, pp. 247-248.

¹⁴³ Maori Land Court, Waikato Minute Book no. 2, p. 248.

¹⁴⁴ Maori Land Court, Waikato Minute Book no. 2, p. 249.

to occupy the Aroha permanently'. He had heard that this land was 'in the hands of King Tawhiao,¹⁴⁵ meaning that it could not go through the court or be sold.

Arama Karaka Hokianga, a Ngapuhi who had lived at Te Aroha before 1840, marrying into Ngati Tumutumu, gave the names of the leaders of this hapu living there then and said that no Ngati Haua had been there. 'During the time I lived there Ngatihaua never came to disturb us'.¹⁴⁶ His son, Hemi Puru, born at Te Aroha, gave the names of the 'clearings' cultivated by Ngati Tumutumu, and said that even though his family moved away for a time, some members of this hapu always remained there.¹⁴⁷

Piniha Te Wharekowhai, a Hauhau, claimed on behalf of Ngati Paoa, but was told that it could make its statement on the following day, and the court adjourned.¹⁴⁸

During the course of the evening a meeting of all the disputing parties was held at the Ngatipaoa camp, having been called by Te Aukati Tarapipipi, the leader of that tribe. During the discussion, Te Aukati offended the dignity of a portion of the Ngatihaua, who got up and left the meeting. Te Aukati then said he would shut up the Court and take all the tribes away.

On the following day, when Ngati Paoa were called to argue their case, Tarapipipi Te Aukati, as the clerk recorded his name, 'said he wished to make a statement without being examined'.¹⁴⁹

I have a claim to Te Aroha from ancient date to the time of the Election of my King – therefore I say that the investigation should cease – because the Crown Grant of the King has been placed upon it. I have been appointed by our King to look after the land over which he has influence, therefore I appear to stop the investigation – lest the investigation should go on and afterwards troubles should arise.

If the land 'belonged to the Kupapa natives alone', meaning the Queenites, Tawhiao 'would not interfere, but the land belongs to parties

¹⁴⁵ Maori Land Court, Waikato Minute Book no. 2, pp. 249-250.

¹⁴⁶ Maori Land Court, Waikato Minute Book no. 2, pp. 250-251.

¹⁴⁷ Maori Land Court, Waikato Minute Book no. 2, pp. 251-252.

¹⁴⁸ Maori Land Court, Waikato Minute Book no. 2, pp. 252-253.

¹⁴⁹ A Correspondent, *Auckland Weekly News*, 13 March 1869, p. 17.

who are King natives', and therefore he asked for the investigation to cease. 'The whole of the King natives will hold on to this land – The King will not allow this land beginning from Ohinemuri on to the Aroha to be taken out of his hand, he holds it in possession'. By bringing the land into the court, the kupapa Maori would create 'trouble'.¹⁵⁰ A correspondent recorded that he also said that the land 'had formerly belonged to the Ngatikopirimau, but it was not for him to say now to whom it belonged, as it was in the hands of the King; and that he would withdraw the claim of Ngatipaoa, whether the Court went on or not'.¹⁵¹

The Court stated – that it had nothing to do with his protest – it had been taken down and would be laid before the Government. That Notice had been sent all over the Island that the land would be investigated, that the Court had its own duties to perform consequently the investigation would go on notwithstanding the protest.¹⁵²

The correspondent recorded that Rogan also said that 'a large number of natives had come to prefer their claims; therefore he would not put a stop to the proceedings'.¹⁵³ After Rogan's refusal to comply, 'most of the Ngatipaoa – Ngatitamatera & Hauhau natives left the Court on the invitation of Tarapipipi Te Aukati'.¹⁵⁴

After their departure, Te Wheoro,¹⁵⁵ of Ngati Haua and Ngati Naho, briefly claimed for the latter on the same grounds as the former: conquest. In reply to Te Karauna, he said he had not seen him driven off Te Aroha but had heard of it from all the old chiefs of Ngati Haua and Waikato.¹⁵⁶ Two witnesses from Ngati Haua and related hapu gave similar evidence; although they had not lived at Te Aroha, they claimed 'by the strong arm', for Ngati Haua had won the battle of Taumatawiwi and the later skirmishes.¹⁵⁷

¹⁵⁰ Maori Land Court, Waikato Minute Book no. 2, pp. 253-254.

¹⁵¹ A Correspondent, *Auckland Weekly News*, 13 March 1869, p. 17.

¹⁵² Maori Land Court, Waikato Minute Book no. 2, p. 254.

¹⁵³ A Correspondent, *Auckland Weekly News*, 13 March 1869, p. 17.

¹⁵⁴ Maori Land Court, Waikato Minute Book no. 2, p. 254.

¹⁵⁵ See Gary Scott, 'Wiremu Te Morehu Maipapa Te Wheoro', *Dictionary of New Zealand Biography*, vol. 1, pp. 524-526.

¹⁵⁶ Maori Land Court, Waikato Minute Book no. 2, pp. 254-255.

¹⁵⁷ Maori Land Court, Waikato Minute Book no. 2, pp. 255-257.

On the fifth day of the hearing, Gillies stated the Ngati Haua case,¹⁵⁸ and then examined Te Raihi for 20 minutes; cross-examination by Davis lasted two hours.¹⁵⁹ Te Raihi claimed that Ngati Haua had ‘a permanent settlement of the whole tribe’ at Waiharakeke in the 1830s. ‘Not a single person of Ngatimaru lived on the land at this time’, and their pigs were eaten by Ngati Haua. ‘Ngatimaru stealthily tried to cultivate but they were pulled up by Ngatihaua – Ngatimaru did not object to Ngatihaua doing so’. He provided details of how the land was divided up. ‘I have not heard of Te Waharoa returning this land to Ngatimaru – It is not right according to Maori custom that after land has been taken and divided amongst the tribe for the head chief to return it without consulting the tribe – He could only give his own portion’.¹⁶⁰

Under questioning by Davis, Te Raihi not only claimed victory at Taumatawiwi and afterwards but also to have occupied the land ‘down to Te Aroha’. On the tenth day after Taumatawiwi, he went to Te Aroha and divided the land before returning. ‘My elders told Ngatimaru at the time of making peace that they would take Te Aroha’. As Te Waharoa ‘divided amongst the tribe, the tribe had it’, not Te Waharoa himself. Te Raihi did not tell Ngati Maru of the division: ‘I did not consider them a people of any consequence that I should tell them that I had divided my land’. Once peace was made,

I went on the land and I personally divided and occupied it. – All the Ngatihaua tribe went to divide the land. Te Waharoa and my father – all the chiefs and the people went to eat eels and potatoes – This was not at any particular time but every year up to the present time – Ngatimaru were at their pa at Turua at Hauraki.

The Ngati Tumutumu living at Te Aroha were related to him. He acknowledged that Ngati Kopirimau and other hapu had lived there, but described them as ‘half castes’, meaning they had Ngati Haua ancestry, and claimed they lived outside the northern boundary. ‘Tauanu is living under my mana now at Te Aroha – My Mana is over the whole block’. To explain why Ngati Haua did not build any pa at Te Aroha, he asked: ‘Of whom was I afraid that I should build pas?’ He had lived at Waiharakeke, Manawaru, ‘and many other places over the Block’, and some Ngati Haua were born

¹⁵⁸ This cross-examination was not recorded in the minutes of the hearing.

¹⁵⁹ A Correspondent, *Auckland Weekly News*, 13 March 1869, p. 17.

¹⁶⁰ Maori Land Court, Waikato Minute Book no. 2, pp. 268-269.

and died there. 'The Ngatimaru used to go to and fro, we did the same but we had the best of it'. When Ngati Maru besieged Matamata 'the land was abandoned because it was war time – It was debatable land – There was not a single person on the land'. The Ngati Haua 'great settlement' closest to Te Aroha was Waiharakeke.¹⁶¹

Te Raihi then answered a few questions from Gillies about Taumatawiwi and afterwards. 'The strong man is the man who stays – the weak man is the man who flees. After the battle of Taumatawiwi the only thing that Ngatimaru did was to kill people like a cat would a mouse'. His father had conducted Ngati Maru back to Hauraki after Taumatawiwi 'lest anything should happen to them on the road – lest they should be attacked – This was done out of friendship but was different from conducting a guest. It was not as honorable – We did so because we did not want them here'.¹⁶²

Aperahama Tu Te Rangipouri of Ngati Haua was the only other witness on this day. He confirmed Te Raihi's account of his tribe's victories at Taumatawiwi and later skirmishes, describing some of the latter as 'murders' because it was during a time of peace, the men were absent, and most of those killed were women. For two years after Taumatawiwi, Ngati Haua occupied Te Aroha, cultivating the land and catching eels, and from 1832 to 1842 Ngati Maru did not occupy it. Instead, Ngati Haua did, 'planting potatoes & wheat and building houses and catching eels'. Ngati Maru 'put pigs on the land – and we eat them – they attempted to cultivate on the land and we pulled them up – They cultivated below Ruapa – They never cultivated on this block'. The statement that Te Waharoa gave back Te Aroha was false, for none of the tribe had heard of him or any other chief doing so. 'It is not right after the land has been divided up amongst the tribe for the chief to return the land to the conquered tribe – He could not do it of himself'.¹⁶³

Cross-examined by Davis, Aperahama gave more details of the battles. After Taumatawiwi, 'I', probably meaning the tribe, 'immediately went to cut up the land at Te Aroha whilst the Ngatimaru were still at Maungatautari'. 'We led them as pigs' was his description of Ngati Maru returning to Hauraki. Some members of Ngati Tumutumu, Ngati Kopirimaui, and other hapu 'lived on Te Aroha under my protection'. Tauaru

¹⁶¹ Maori Land Court, Waikato Minute Book no. 2, pp. 269-274.

¹⁶² Maori Land Court, Waikato Minute Book no. 2, p. 274.

¹⁶³ Maori Land Court, Waikato Minute Book no. 2, pp. 274-276.

was a 'half caste being related to Ngatihaua – He was under my protection – I did not hear of Tauaru placing the Ngatihaua hauhau on the Aroha'.¹⁶⁴

On 1 March, the sixth day of the hearing, the case for Ngati Haua ended with evidence from 12 Maori and two Pakeha. A correspondent was amused by an unnamed Maori witness, 'on being asked the date of a certain fight', stating 'that he did not take in the paper in those days, or he might have been able to remember it'.¹⁶⁵ This man was Te Moananui, of Tauranga, whose words as recorded by the clerk revealed that he thought that Taumatawiwi had taken place in Captain Cook's time, and that his ship was called 'New Zealand'.¹⁶⁶ This was the most blatant example of apparent confusion over dates and sequences of events. When asked to clarify, he explained: 'My saying that Te Aroha was taken by Te Waharoa in Captain Cook's time was that it was at that time that the quarrel commenced which ultimately led to its being occupied after Taumatawiwi'.¹⁶⁷

The Maori witnesses repeated that Ngati Haua had won Taumatawiwi and subsequent battles and that Te Waharoa had not returned Te Aroha, which had been divided up.¹⁶⁸ One witness claimed that for considerable periods no Ngati Maru lived there.¹⁶⁹ He stated that the land was divided up after Taumatawiwi when 400 people went to Te Aroha for ten days. They all 'got supplied with eels' and planted wheat and potatoes on other parts of the block, reaping large crops and getting 'a million of eels'.¹⁷⁰ Hoterene Te Waharoa, eldest son of Wiremu Tamihana, was told by his father 'that Te Aroha was his. I have not heard that Te Aroha had been returned.... Being the eldest son I should have heard if such were the case'.¹⁷¹ Te Moananui, whose father was Ngaiterangi and whose mother was Ngati Haua, said that after Ngati Maru 'were driven to Hauraki', nobody lived at Te Aroha 'for fear of being killed'.¹⁷² He concluded his cross-examination by Davis by stating, 'When Port Jackson', meaning Sydney, 'was taken by the

¹⁶⁴ Maori Land Court, Waikato Minute Book no. 2, pp. 276-279.

¹⁶⁵ A Correspondent, *Auckland Weekly News*, 13 March 1869, p. 17.

¹⁶⁶ Maori Land Court, Waikato Minute Book no. 2, p. 286.

¹⁶⁷ Maori Land Court, Waikato Minute Book no. 2, p. 286.

¹⁶⁸ Maori Land Court, Waikato Minute Book no. 2, pp. 279-296.

¹⁶⁹ Maori Land Court, Waikato Minute Book no. 2, p. 280.

¹⁷⁰ Maori Land Court, Waikato Minute Book no. 2, p. 281.

¹⁷¹ Maori Land Court, Waikato Minute Book no. 2, p. 281.

¹⁷² Maori Land Court, Waikato Minute Book no. 2, pp. 284-285.

Government it was not given back to the blacks, neither should Te Aroha'.¹⁷³ One other witness made a similar comparison: 'We took the land in the same manner as the Government did in reference to the confiscated land and in the same way as the lands in Australia'.¹⁷⁴

Another witness said that Ngati Maru never attempted to drive Ngati Haua off the land or came to catch eels. 'They cultivated on one occasion at Manawaru. As soon as they were out of the ground we pulled them up – They did not make a noise about our doing so'.¹⁷⁵ The next witness, Rihia Te Kauae, confirmed this, saying that Ngati Maru had gone there 'stealthily' to plant their potatoes; and their pigs were killed by Ngati Haua. 'They did not make a disturbance about these things – We did these things according to Native Custom and were correct – If the Ngatimaru felt convinced that it was their land they would have persisted – but as they did not do so they assented that the land was Ngatihaua land'.¹⁷⁶ Riria explained that as Tauaru, a Ngati Maru, had married his sister it was 'right for him' to live at Te Aroha. 'My sister his wife is dead and out of affection he is allowed to remain there.... We put him there not to take possession of the land but to live amongst the tribe'.¹⁷⁷ From the time that peace was made between the tribes until the Waikato war, Penetito and his slaves cultivated Waiharakeke and Manawaru, the same portions of the block that most Ngati Haua, when being precise, mentioned. 'When I commenced working on Te Aroha I did not see any Ngatimaru cultivating there – if they had done so they would have welcomed me to their places whilst I was pulling up and down the river, therefore I say there were none'.¹⁷⁸ The last Maori witness, Teni Ponui, said that the Ngati Maru currently 'occupying the land to the number of 100 are coming perhaps to tease in order to get back their land that was taken at Taumatawiwi'.¹⁷⁹

The last two witnesses were both Pakeha Maori. William Nicholls (recorded as Nicholas), a trader who had known the district for 26 years,¹⁸⁰ and whose daughter Charlotte was trying to become an owner of Ruakaka,

¹⁷³ Maori Land Court, Waikato Minute Book no. 2, p. 286.

¹⁷⁴ Maori Land Court, Waikato Minute Book no. 2, p. 292.

¹⁷⁵ Maori Land Court, Waikato Minute Book no. 2, p. 287.

¹⁷⁶ Maori Land Court, Waikato Minute Book no. 2, p. 239.

¹⁷⁷ Maori Land Court, Waikato Minute Book no. 2, pp. 290-291.

¹⁷⁸ Maori Land Court, Waikato Minute Book no. 2, p. 294.

¹⁷⁹ Maori Land Court, Waikato Minute Book no. 2, p. 296.

¹⁸⁰ See paper on his life.

had seen Ngati Haua living at Waiharakeke and Manawaru. From 1855 until six months ago 'I did not see any cultivations of Ngati Maru – I think I should have seen them if there had been any – I was buying wheat &c from Ngatihaua at that time'. About six months ago Ngati Maru and Ngati Haua Hauhau had settled 'below Te Aroha near Paharakeke'.¹⁸¹ Cross-examined by Davis, Nicholls did not recall buying wheat from Ngati Tumutumu after 1844. The only person living at Te Aroha between then and 1855 was Parakauwere. For the past six months Tutuki had been cultivating the land. Asked about other hapu and individuals, he could not confirm that they lived there.¹⁸² Louis Dihars, another trader,¹⁸³ deposed that he had had 'constant opportunities' over many years to know the area and had 'not known of Ngatimaru cultivating on this Block – I must have known it if they had done so'.¹⁸⁴

On the seventh and last day of the hearing, William White presented the case for Ngati Paoa and Ngati Maru before Gillies spoke for Ngati Haua.

It was explained by the Court to the natives that the evidence had been heard and taken down but that in consequence of Mr Rogan and the assessor being unavoidably separated during the holding of the Court they cannot arrive at a judgement at the present time. The case is the most important one Mr Rogan has ever had before him. It was not advisable to detain the natives in order to enable the Court to give its judgement as they were all in want of food and if they were detained perhaps the Court could not even then come to a decision.

Accordingly, the court was adjourned to Coromandel, when judgment would be given on 26 March. Rogan would recommend to the chief judge that copies of his judgment should be printed 'to be distributed amongst the claimants who would not be able to attend at Coromandel'.¹⁸⁵ A correspondent recorded him saying that 'as the case had occupied so long and was one of such vast importance, the Court would require some little time to consider the evidence'. He did not want 'to keep so large an assemblage waiting for the judgment, in a place where all the food had to be

¹⁸¹ Maori Land Court, Waikato Minute Book no. 2, pp. 296-297.

¹⁸² Maori Land Court, Waikato Minute Book no. 2, pp. 297-299.

¹⁸³ See chapters on Maori in Hauraki.

¹⁸⁴ Maori Land Court, Waikato Minute Book no. 2, p. 299.

¹⁸⁵ Maori Land Court, Waikato Minute Book no. 2, pp. 299-300.

brought from a distance', and thanked all who attended 'for their remarkably orderly conduct and good behaviour'.¹⁸⁶ The correspondent did not record his rebuff to Ngati Paoa:

It was told to Ngatipaoa that they were too late in making their claim – it is their own fault if they were not heard and if they complain now it is entirely their own fault that they were not heard. They left the Court for some reason best known to themselves – they made no claim to the land at the sitting of the Court at Cambridge, only the Ngatimaru.¹⁸⁷

The day before judgment was to be given at Coromandel, on 30 March, 'Te Moananui and several other chiefs posted a notice' asking Rogan to give it outside the courthouse because of the large number present, between 300 and 400. As it was considered 'that order would be more easily maintained within the building', the request was declined. When the court opened, about 300 Maori assembled inside and outside the building. Once again Rogan was asked to give judgment outside, and again he refused. Representatives of Ngati Haua were in the courtroom, but although Rogan 'several times' asked Ngati Maru to enter, they declined.¹⁸⁸

Mackay later explained that, when Rogan posted a notice that the judgment would be delivered in the temporary court house, 'several' Maori 'both Hauhau and friendly placed other papers beside it, asking the Judge to give his decision outside the house instead of within it'. On the day the judgment was to be given, Marutuahu, having 'by some means been informed that the decision would probably be adverse to them', refused to enter and asked Rogan to 'discuss the matter outside. Of course it would have been lowering the standing of the Court to do this', and, after 'waiting patiently for a considerable time', Rogan read his judgment. 'Hardly any Natives but the Ngatihaua claimants were present in the Court House, all the opposite party remained outside arguing with me as to the propriety of the Court giving judgment inside the house'.¹⁸⁹

Rogan commenced by giving a brief account of conflicts between Ngati Maru and Ngati Haua, resulting in the former, 'worsted at the battle of

¹⁸⁶ A Correspondent, *Auckland Weekly News*, 13 March 1869, p. 17.

¹⁸⁷ Maori Land Court, Waikato Minute Book no. 2, p. 300 [punctuation added].

¹⁸⁸ *Auckland Weekly News*, 3 April 1869, p. 10.

¹⁸⁹ James Mackay to Daniel Pollen, 10 April 1869, Legislative Department, LE 1, 1869/133, ANZ-W.

Taumatawiwi', being 'compelled to retreat to their own District'. Afterwards, Ngati Haua claimed to occupy and sub-divide the Aroha block and to take possession of the eel weirs.

The chief evidence in favour of the right of Ngatimaru to Te Aroha was given by some on the Ngatihaua tribe who now reside on the land about 100 in number and who are called Ngatihaua Hauhau. One of the witnesses called Te Kepa Ringatu whose evidence may be said to be more straight forward than many others has admitted that Te Aroha was taken by Te Waharoa after the battle of Taumatawiwi. He states "The land was not only taken by word of mouth but we divided it up!" He also stated in his evidence that Te Waharoa subsequently gave back the land to its original owners. This is one of the Chief points in this case as it is customary among the New Zealanders to give back land which has been taken in war after peace has been established between two tribes; but there is nothing to show with sufficient clearness that any formal restoration back had been made by the principal chief of Ngatihaua.

The conflicts of the 1830s were attempts by Ngati Maru to regain Te Aroha, which had failed to damage Ngati Haua's strength because only a few people, mainly women, were killed. 'They also planted on Te Aroha, which plantation was afterwards destroyed by Ngatihaua'. The latter made no claim to have owned the land before Taumatawiwi, but had 'sole possession' in 1840.

The evidence given on both sides is as usual in cases of tribal disputes very contradictory, but the Court will follow the rule which it has laid down in similar cases – that those who are found in undisputed possession of the land in this country at the time the English Government took formal possession of the Island shall be considered as the real owners of the soil.

The judgment therefore is given in favour of the Ngatihaua tribe, including the Hauhau portion of that tribe now in occupation of the land.

And the Ruakaka block also went to Ngati Haua claimants.¹⁹⁰

THE AFTERMATH OF ROGAN'S JUDGMENT

¹⁹⁰ Maori Land Court, Waikato Minute Book no. 2, pp. 300-304; printed, with some mistakes and additional commas, in 'The Aroha Land Claim. The Judgment', *Auckland Weekly News*, 10 April 1869, p. 23.

In one account, while the court adjourned for lunch, Mackay, at Rogan's request, read the judgment (which was delivered in English) to Marutuahu:

While Mr Mackay was doing this, the natives expressed considerable dissatisfaction, and at the conclusion the natives commenced to speak very warmly. Several of the chiefs addressed the meeting, stating their determination to hold on to Te Aroha at every risk, and to pay no attention whatever to the judgment of the Court.

Another account stated that while Rogan was reading his judgment, some Marutuahu rangatira 'addressed the assemblage of natives outside. Some of the speakers advocated an onslaught on the Ngatihaua who were present', and expressed 'great dissatisfaction with the decision'.¹⁹¹ At the height of the 'great excitement', Mackay later reported, 'it was proposed to kill Te Raihi and some Ngatihaua'.¹⁹² Keepa Te Wharau heard one man suggest that the Ngati Haua present 'should be chopped up on account of what they had said. Taraia then tied a rope to his leg and Maihi Te Hinaki led him before him, calling out: "pig pig". This was to excite his people to kill Te Raihi and others'.¹⁹³ It was later stated that 'the few Ngatihaua who were present narrowly escaped being tomohawked'.¹⁹⁴

In one account, when Mackay went outside to read the judgment, he 'was met with a perfect storm of indignation, and was told to move out of the way. Order having been restored, however, he proceeded to read the judgment'.¹⁹⁵ He explained to the government that, when he read and explained it,

the Natives told me that if any other person but myself had brought out the document they would have torn it to pieces. After order was slightly restored, the leading men loyal and Hauhau rose one after the other, and addressed the meeting. The general tenor of their speeches was a fixed determination to die sooner

¹⁹¹ *Auckland Weekly News*, 3 April 1869, p. 10.

¹⁹² James Mackay to Daniel Pollen, 24 June 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

¹⁹³ Maori Land Court, Hauraki Minute Book no. 10, p. 434 [punctuation added].

¹⁹⁴ *Thames Advertiser*, 17 March 1877, p. 3.

¹⁹⁵ *Auckland Weekly News*, 3 April 1869, p. 10.

than give up the Aroha and Ruakaka blocks. The Hauhau natives took advantage of the adverse decision to make political capital against the Government, by asking the loyal Natives to join them as all the wrong was done by the Governor, who was the originator of all Courts.

The friendly Natives did not altogether coincide in this view, but they were difficult to convince as the Native Lands Court is very unpopular with the Thames Natives on account of what they consider an unjust decision in the great Orakei case.¹⁹⁶

According to a newspaper, when Mackay said they could approach the Governor-in-Council for a rehearing, a rangatira responded that this would be 'useless' as the government had set up the court 'and the two were one and the same thing'. When Mackay explained that they were 'distinct in their operations', the government having 'no influence whatever over decisions', Te Aukati Tarapipipi responded

in a most violent manner, particularly directing his remarks to Mr Mackay. He said he would go immediately and take possession of Te Aroha, and that if any attempt was made to survey it, or to make any use of it, the parties attempting to take possession would have to pass over his body. That land had been under the control of the King for some years, and it could not now be disposed of. Tarapipipi went on to make some remarks in reference to the good effected by the King.

Another version of his 'able speech' quoted him saying: 'If you try to survey this land you will have to drag the chain over my body. We, the Hauhau party, will go up and take possession of the land, and we will narrowly watch the movements of Ngatihaua in relation to any attempt to survey'. Mackay's response, critical of Hauhau and praising 'the determination of the friendly party to resist evil', which had maintained peace and preserved Hauraki intact, was followed by several rangatira supporting Tarapipipi's determination to hold on to the Aroha block.

The excitement among the natives was very intense, and the natives returned to their tents to prepare for a war dance, as a grand demonstration against the successful party. After a time they assembled naked, some armed with guns and others with billets of wood – the Hauhau party standing on one side and the

¹⁹⁶ James Mackay to Daniel Pollen, 10 April 1869, Legislative Department, LE 1, 1869/133, ANZ-W.

Ngatimaru and other tribes on the other. Each party then went through the whera, which manoeuvre is intended to represent the chasing [of] a flying enemy, meaning in this case that the Ngatimaru would drive the Ngatihaua off this land. After this the war dance was commenced, the natives working themselves up into a terrific state of excitement. It was continued for a considerable time alternatively by the Hauhau and the Queen party, each party rushing backwards and forwards. At the conclusion of the war dance the two parties squatted on the ground about twelve yards apart, and commenced a korero. There were about three hundred people present. The burden of the speeches delivered by most of the speakers was to the following effect:- "Buckle on and up to Te Aroha, and away to Maungatautari," signifying that they would carry the war into the Ngatihaua country, whilst an armed body maintained possession of the Te Aroha. The Hauhau party and the Queen party of Ngatimaru addressed each other, saying, "Now we are one."

A chief of Ngatimaru, addressing the assembled natives, said: It is well. Our parent the Governor has caused us to be slapped on the cheek without any cause. We have done him no harm, and yet he has come down rudely upon us. His children have slapped us on the cheek, and taken away our mat from under us.

Tarapipipi arose and delivered a most telling speech. He said, amongst other things: The law is excellent when it is administered by men of principle, but a number of lawyers mix themselves up in the matter, and, as these people (the lawyers) care for nothing but money, the thing that is right they put down as wrong, and the thing that is wrong they put down as right. What is the remedy? There is no remedy against these people but to hold tightly on to our land by the strength of our arms, to maintain possession of the land of our forefathers. These Ngatihauas were never strong enough to take away this land from us. Tarapipipi also stated that, if the Ngatihaua obtained possession of the Te Aroha Block, it would have the effect of driving the Thames people from their homes.

Songs were then sung and recitations were given, expressive of the determination of the Ngatimaru to hold on to the death to the Te Aroha Block. After this the Hauhaus of Piako, Ohinemuri, and other places joined with the Queenites of Waiheke, Wharikawa, Coromandel, Mercury Bay, and other places on the East Coast, to the number of between three and four hundred, and a terrific war dance took place, which baffles all description – many of the women taking part in the dance, and the whole behaving in the most excited manner. The dance was probably meant to signify

that an alliance was thus formed by these two parties for the protection of the Te Aroha estate.¹⁹⁷

Reha Aperahama,¹⁹⁸ who was present when the judgment was given, later described the anger:

Marutuahu were very angry with N'haua and threatened to chop them up – The principal reason of being angry with N'haua was, saying that they had led Marutuahu about like pigs. N'haua had said they were a strong people. Marutuahu challenged them to try it on. All the people of Hauraki took part in the War dance, Taraia was present – also Tanumeha Te Moananui, Haora Tipa, Ngakapa Whanaunga and all the people of Hauraki. It was not about the rehearing that they spoke that day but about taking possession of the land and fighting N'haua – and that they should take Te Aroha as far as Maungatautari. Conversations of this kind occupied several days. Taraia on one occasion tied flax around his legs taunting or jeering at Marutuahu for having been said by N'haua that they had been led like pigs. I did not hear Taraia say had they not returned from Kapiti they would have been served in this manner – he tried to induce Marutuahu to fight on account of the saying that they had been led like pigs.¹⁹⁹

Immediately after the war dance, some Hauhau left to take possession of Te Aroha and 'the Queen party requested a re-hearing'.²⁰⁰ According to Mackay, he, 'at last, got them to be a little more reasonable by suggesting that they should apply for a rehearing of the case. This they agreed to do, and a letter was written and signed at once, and forwarded to the Government'.²⁰¹ He wrote the petition during the haka, and it was signed 'by both friendly and Hauhau Natives'.²⁰² Seventy signed at once, and it was taken to other parts of Hauraki to obtain more signatures. Journalists were informed that Mackay 'strongly' recommended a rehearing and that many Maori 'were much quieted on hearing that they could have a jury to try the

¹⁹⁷ *Auckland Weekly News*, 3 April 1869, p. 10.

¹⁹⁸ See paper on his life.

¹⁹⁹ Maori Land Court, Hauraki Minute Book no. 10, pp. 392-393.

²⁰⁰ *Auckland Weekly News*, 3 April 1869, p. 10.

²⁰¹ 'Report by Mr Commissioner Mackay', p. 10.

²⁰² Meha Te Moananui and 72 others to Governor, 30 March 1869; James Mackay to Daniel Pollen, 10 April 1869, Legislative Department, LE 1, 1869/133; ANZ-W.

case in the event of a new trial'.²⁰³ (If he suggested this was a certainty, he was misleading them.) Amongst those signing the petition were most of the leaders of Ngati Rahiri: Karauna, Mokena and his sons Akuhata and Ranapia, Keepa Te Wharau, and Aihe Pepene.²⁰⁴ A particular source of tension was the court's requirement that the block be surveyed within six months.²⁰⁵

Discontent continued:

We learn from Ohinemuri, Kirikiri, and other parts of the Thames, that great excitement and dissatisfaction prevail about the decision in the Te Aroha case. The Ngatimaru make all kinds of dire threats against their successful opponents, and declare that they will resist the carrying into effect of the decision of the Court.²⁰⁶

One member of Ngati Rahiri who was present later stated that 'there were many days spent in giving expression to our indignation'.²⁰⁷ Hauhau living at Whangamata and Tauranga, some of the Arawa tribe, and Waikato Kingites arranged a large meeting at Ohineroa to discuss the decision. 'The Queen natives have been invited to attend, but have been requested not to take possession of the disputed Aroha block until the Hauhau party had endeavoured by argument to induce the Queen Ngatihaua ... to withdraw their claim, it not being, it is said, a valid one'.²⁰⁸ It was also reported that although Ngati Maru had decided to go to Te Aroha to prevent, 'by force, if necessary, any attempt to survey the land', Te Hira had asked them not to go there 'in case of disturbance'. The Hauhau section of Ngati Haua living near Te Aroha was understood to 'favour the claim of the Thames tribe to the land. Te Hira, in order to obviate the risk of a division among the Hauhaus, proposes to try the effect of diplomacy to get the successful complainants not to make the survey' or to insist on their rights as conferred by the court. A Thames newspaper described 'the

²⁰³ *Auckland Weekly News*, 3 April 1869, p. 10.

²⁰⁴ Meha Te Moananui and 72 others to Governor, 30 March 1869, Legislative Department, LE 1, 1869/133, ANZ-W.

²⁰⁵ James Mackay to Daniel Pollen, 10 April 1869, Legislative Department, LE 1, 1869/133, ANZ-W; *Auckland Weekly News*, 1 May 1869, p. 23.

²⁰⁶ *Auckland Weekly News*, 10 April 1869, p. 18.

²⁰⁷ Maori Land Court, Hauraki Minute Book no. 10, p. 399.

²⁰⁸ *Auckland Weekly News*, 17 April 1869, p. 4.

spectacle of the Hauhau Te Hira interfering to prevent fighting in a case arising from a decision in the Native Lands Court' as 'rather a strange one'.²⁰⁹

Six applications were made for a rehearing, one being signed by 160 Ngati Maru.²¹⁰ The petition explained that the court had refused to hear the case at Hauraki and described Ngati Maru's difficulties in attending. Ngati Haua were present in 'large numbers', and the 'very small number' of Ngati Maru 'were not able to combat' their 'false statements'. Those Ngati Maru attending 'were all young, there was no old man among them', meaning a rangatira of high rank. Ngati Tamatera, Ngati Paoa, and Ngati Whanaunga did not speak. When they went to Coromandel, Marutuahu wanted 'further investigation but the Court decided that the talk had been ended at Matamata. We thought that those who had not attended the Court at Matamata should speak'. The petitioners asked for a rehearing of the Aroha and Ruakaka blocks to avoid a continuing 'quarrel' with Ngati Haua causing 'evil', and wanted it held in Ohinemuri and heard 'by a Jury of twelve Natives to assist the European Judges'. They would produce witnesses to contradict the claim that Ngati Haua took Te Aroha after Taumatawiwi.

This land Te Aroha is auriferous, it is good land, is the land of our ancestors even down to our day. We do not wish our land to be taken wrongly by them on their ex parte²¹¹ statements. Rather let us all give evidence before the Court, then the Court will be clear to adjudicate, it is not right to decide on their evidence only.

Despite being 'very vexed on account of this judgment', they were 'dwelling quietly under the law'.²¹² Mackay, in forwarding the copy signed by 73 of the 'principal men' of Marutuahu, begged 'to most respectfully but urgently recommend that its prayer should be complied with'. He explained that Hauraki Maori had been 'unanimous' in objecting to the case being

²⁰⁹ *Thames Advertiser*, 12 April 1869, reprinted in *Daily Southern Cross*, 13 April 1869, p. 6.

²¹⁰ *Auckland Weekly News*, 24 April 1869, p. 4.

²¹¹ 'On, in the interests of, one side only': *The Concise Oxford Dictionary of Current English*, 5 ed. (Oxford, 1964), p. 425.

²¹² Petition of Meha Te Moananui and 72 others to Governor, 30 March 1869, Legislative Department, LE 1, 1869/133, ANZ-W.

held outside their district, as he had at the time informed Fenton, the chief land court judge.

A number of the most influential men who had claims to Te Aroha had been with me attending a meeting about the opening of the Ohinemuri lands, from the commencement to the 15th February, where the friendly chiefs rendered valuable assistance on behalf of the Government. As many of them had been absent from their homes three or four weeks they were not prepared to proceed to Matamata by the 22nd when the Court was held. They however delegated a few young people of the friendly portion of the bribes to represent them at the Court, and the Hauhau part of the same tribes, who lived at the Upper Thames nearest to Matamata and who had a perfect knowledge of the claim, agreed to assist the loyal Natives with their joint claims. However on reaching Matamata the Hauhau people refused to acknowledge the jurisdiction of the Court, and the persons of Ngatipaoa, Ngatiwhanaunga and Ngatitamatera were not sufficiently acquainted with their title to Te Aroha in the absence of all the old men of the loyal party, to be able to conduct their case. They therefore did not bring it forward then.

Those who had attended the Matamata hearing led the other claimants to believe that there would be a further investigation of their title' at Coromandel. Having 'consequently assembled in great numbers' on 26 March, 'they were very much disgusted at hearing that the case was closed and no more evidence receivable'. Mackay summarized the anger expressed and how he drafted the petition, adding that if Marutuahu 'got up their case properly' their claim was 'superior' to that of Ngati Haua. He warned that any attempt to survey the land would 'be met by the armed resistance of every Native (loyal and Hauhau)' in Hauraki. 'Even were the Government to attempt to enforce the carrying out of the decision of the Court I believe nearly every man would still resist it'. Under these circumstances, he 'most urgently' recommended a rehearing at either Thames or Ohinemuri, preferably the latter because it was closest to Ngati Haua. 'Neither side could complain as the distance to be travelled would be about equal. I also think the suggestion about a Jury is worthy of attention'. Any rehearing 'should take place as soon as possible'. He added a postscript

denying any reflection on Rogan, who could not have reached any other conclusion 'with the evidence given before him'.²¹³

Fenton rejected the part of the petition asking for all Hauraki cases to be held in Shortland. He wanted Marutuahu 'told that the war dances and other savage demonstrations in which they indulged at Coromandel' were 'not likely' to cause him to hold sittings 'on any great question affecting Hauraki lands anywhere except in Auckland'. In response to the argument that not all the witnesses had been heard, he considered Ngati Maru was negligent in not producing them. 'Still I am of opinion that the case should be reheard, simply because it is one of vast importance and value and I think that [if] the minutes of the Court give evidence that the writers were badly advised and had their case got up badly I think there might be a rehearing'.²¹⁴ On 4 May, the government agreed to a rehearing, set down to be held in Auckland on 20 December the following year.²¹⁵

Under the leadership of Tarapipipi, Ngati Maru had taken possession of the disputed land. Queenite members of Ngati Haua had planned to occupy it first, but the Hauhau section of this tribe stopped them. 'Had the two parties got upon the ground, nothing would have prevented bloodshed', one newspaper commented.²¹⁶ In late April, a Pakeha living in 'the Upper Thames' reported that the Queenite Ngati Haua had decided to hand the land over to Te Hira; as he opposed opening it to mining because that would force the opening of Ohinemuri, he was acting as a mediator to keep the peace. It was assumed that the gift was prompted by the thought 'that they had no chance of getting the survey completed, and may have had some misgivings that the decision of the Court was not quite right'.²¹⁷ At the meeting at Ohineroa, Te Hira begged Te Raihi to place the land in his hands, but this was refused. Instead, Te Raihi told him that if Ngati Maru 'did not come up to the Aroha to plant there he would postpone the survey,

²¹³ James Mackay to Daniel Pollen, 10 April 1869, Legislative Department, LE 1, 1869/133, ANZ-W.

²¹⁴ F.D. Fenton to Daniel Pollen, 17 April 1869, Maori Affairs Department, Maori Land Court Memoranda Book 1867-1879, pp. 35-36, BAIE 4307/1a, ANZ-A.

²¹⁵ Under-Secretary, Native Office, to Daniel Pollen, 5 May 1869, Agent General Auckland, ACFL 8170, 69/335, ANZ-W; *Auckland Provincial Government Gazette*, 30 September 1870, p. 383.

²¹⁶ *Auckland Weekly News*, 24 April 1869, p. 4.

²¹⁷ *Daily Southern Cross*, 28 April 1869, p. 4.

but if the Ngatimarus commenced felling bush for plantations that he would commence the survey and open the ground to Europeans' for mining.²¹⁸

In July, Mackay told a large meeting held at Thames that Te Wheoro and other Waikato rangatira 'had proposed surveying the Te Aroha block under the protection of the whole of the Lower Waikatos and Raglan party'. Te Wheoro had asked Daniel Pollen, agent general for the general government, 'to allow the soldiers at Rangiriri to protect him' during the survey but Pollen had refused. When Mackay told them that the government had agreed to a re-hearing, Te Moananui doubted the value of this because he had discovered that the court's decisions 'were not in accordance with justice, nor with Maori custom'. He was 'quite ready' to fight Te Wheoro, 'but let not the Europeans interfere'.²¹⁹ In response to his challenge, a rangatira living at Rangiriri said he had 'no wish to fight' but wanted to receive what the court had granted.²²⁰ At another large Thames meeting, in October, 'the first business' was the handing to a Pakeha of some money 'in trust in connection with the Aroha land dispute'; no explanation was given, and this money was not mentioned again.²²¹ Two months later, Donald McLean, the Native Minister, attended another meeting, at which Te Moananui expressed concern that he might lose Te Aroha. Riwai echoed his concern, and asked whether McLean was encouraging the Waikatos, because 'since your visit to Waikato they have become more confident. Now, don't you interfere; let us settle it in our own way; leave us to ourselves. Just take the restriction off the sale of arms for a short time; then leave us to ourselves'. After other rangatira disapproved of Riwai's speech, McLean stated that he opposed any violence.²²²

At the end of May 1870, when it was reported that the provincial government would negotiate with Ngati Haua to purchase the block, the *Thames Advertiser* knew this news would be 'received with satisfaction throughout the province, and especially in this district' because, as Ngati Haua 'never did attempt to make the surveys' required within a specified time, the 'whole matter' had 'fallen to the ground'. It urged the Superintendent to 'get both parties to agree, as a purchase from the

²¹⁸ *Auckland Weekly News*, 15 May 1869, p. 21.

²¹⁹ *Thames Advertiser*, 21 July 1869, reprinted in *Auckland Weekly News*, 24 July 1869, p. 12.

²²⁰ *Auckland Weekly News*, 7 August 1869, p. 24.

²²¹ *Auckland Weekly News*, 23 October 1869, pp. 18-19.

²²² *Auckland Weekly News*, 11 December 1869, p. 4.

Ngatihauas, without recognizing any claims of Ngatimaru, would raise great opposition, and would add to the strength of the closing party at Ohinemuri'.²²³ An over-optimistic 'reliable source' informed the Auckland press that there was 'every probability that within the next day or two successful negotiations will be concluded'.²²⁴ After Edward Walter Puckey, the native agent at Thames, attended a korero at Ohinemuri immediately afterwards, he reported that Tarapipipi was 'very much excited', in part because of this 'rumoured purchase'.²²⁵ Because of fear of losing the land, Ngati Rahiri were asked to return from Kaitawa, on the outskirts of Thames, to live at Te Aroha.²²⁶

In October, when participating in a korero at Kaitawa, Tarapipipi compared Sir George Grey unfavourably with the first two governors. After recounting the saga of the first hearing on the Aroha block, he stated that Hauhau would not attend the rehearing, which should not be held because he wished 'matters to assume the same tone as in the days of Governors Hobson and Fitzroy'.²²⁷ An editorial in the *Thames Advertiser* considered his declaration:

There can be no question as to Tarapipipi's authority to make the statement he did, and it is now for the Government to consider what ought to be done in the circumstances. It is clear that the King party have no faith in the Native Lands Court, and that they consider that its judges did not take the evidence into account, but awarded the land to those who are willing to sell to the Europeans, irrespective of who the real owners may be.

This belief was 'very unfortunate', for it had been hoped the court would be one way to make Tawhiao less hostile to settlers and the government. In the Aroha case, the Thames claimants, though 'partly Queenite and partly Kingite', were 'entirely in the confidence of and had the sympathy of the Hauhau and Kingite party'. It wanted 'bolder steps' by the

²²³ *Thames Advertiser*, n.d., reprinted in *Daily Southern Cross*, 31 May 1870, p. 4.

²²⁴ *Auckland Weekly News*, 4 June 1870, p. 5.

²²⁵ E.W. Puckey to Donald McLean, 10 June 1870, 'Correspondence Relative to Ohinemuri, and Native Matters at the Thames', *AJHR*, 1870, A-19, p. 14.

²²⁶ Maori Land Court, Hauraki Minute Book no. 65, p. 43.

²²⁷ *Thames Advertiser*, 10 October 1870, p. 3.

government to overcome this attitude of the King party, which was ‘a complete barrier to any further progress’.²²⁸

At the end of the month, Puckey informed Donald McLean that ‘the Aroha question’ was ‘occupying the minds of the Ngatimaru’. Instead of another hearing, they wanted the former judgment ‘abrogated, or if the Court must sit that it be further postponed till next autumn’ and held at Thames.²²⁹ In December, Tarapipipi Te Kupara and others met Pollen and told him that Ngati Paoa would not appear at the rehearing. Whatever the court decided, the land was his, because he had been placed there by Te Waharoa, and ‘he would not let it go’. Tarapipipi was told that the government would not interfere and that it was not trying to obtain the land. He had wanted the hearing, and if his hapu allowed judgment to go, by default, to Ngati Haua a second time, it would be their fault. Pollen recorded that there was ‘more talk’ but that opposition to the rehearing was ‘formal and languid’. After the meeting he was told that all those having interests probably would attend.²³⁰

THE SECOND HEARING

When the court met in Auckland early in January 1871, one judge, Frederick Edward Maning,²³¹ opposed having a rehearing, but as his fellow judge, Henry Alfred Home Monroe,²³² wanted one, it was decided to proceed with both men as the judges.²³³ Both men strongly supported Pakeha acquiring Maori land.²³⁴ Two Maori assessors would assist them.²³⁵

²²⁸ Editorial, *Thames Advertiser*, 10 October 1870, p. 2.

²²⁹ E.W. Puckey to Donald McLean, 31 October 1870, Donald McLean Papers, MS-Copy-Micro-0535-082, Alexander Turnbull Library.

²³⁰ Daniel Pollen to Donald McLean, 24 December 1870, appended to Native Minister to Daniel Pollen, 11 October 1889, Maori Affairs Department, MA-MLP 1, 1892/8, ANZ-W.

²³¹ See David Colquhoun, ‘Frederick Edward Maning’, *Dictionary of New Zealand Biography*: vol. 1, pp. 265-266.

²³² See *Cyclopedia of New Zealand*, vol. 2, p. 275.

²³³ *Auckland Weekly News*, 14 January 1871, p. 12.

²³⁴ For their views, see H.H. Turton, *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand* (Wellington, 1883), G, pp. 53-55; Williams, pp. 79-80, 153-154, 159.

²³⁵ *Auckland Weekly News*, 28 January 1871, p. 4.

The hearing, attended by from 300 to 400 Maori, would hear over 70 witnesses and last for 57 days. A solicitor, Samuel Hesketh,²³⁶ assisted by Mackay, presented the Marutuahu case.²³⁷ At the beginning of February, a newspaper commented that the case was 'still dragging its weary length along' and 'with very little prospect of an early termination'.²³⁸ It believed the expenses of this 'interminable inquiry' must be 'very heavy'.²³⁹ A month later, it had 'again to record the fact that the interminable Te Aroha case is still dragging its weary length along at the Native Land Court, and that it is still impossible to say when it will be concluded'.²⁴⁰ An Arawa who worked for the court later cited this 'unnecessarily prolonged' case as an example of how lawyers dragging out hearings 'to get more fees'.²⁴¹

As an indication of the tensions aroused, early in the hearing two elderly men, one a Ngati Haua and the other a Ngati Maru, were observed outside the building having a shouting match over their rival claims.²⁴² Evidence given for Ngati Maru by Te Wariki about the causes of the battle of Taumatawiwi provoked 'an old grey-headed native' to become 'quite excited. He rushed to the doors of the building, got them shut, and shouted and gesticulated in a violent manner about the points of evidence which Te Wariki had given'. Mackay 'lectured him quiet, the doors were opened, and the crowd dispersed'.²⁴³ And one Auckland newspaper was amused by 'A Historical Parallel' played out by those attending the hearing:

The "noble savage" yesterday forgot his usual equanimity of bearing, and relapsed into that perfect freedom of action and speech which characterizes him at home. Having carefully studied the course of events in the present Franco-Prussian war, our tattooed brethren had no doubt determined to rehearse the affair by way of seeing how it would look. One of the parties

²³⁶ See *Cyclopedia of New Zealand*, vol. 2, pp. 240, 278-279; *Observer*, 2 November 1927, p. 4, 1 December 1938, p. 11, 19 January 1939, p. 9; *New Zealand Herald*, 11 January 1939, p. 15.

²³⁷ *Auckland Weekly News*, 21 January 1871, p. 5, 1 April 1871, p. 6.

²³⁸ *Auckland Weekly News*, 4 February 1871, p. 4.

²³⁹ *Auckland Weekly News*, 4 February 1871, p. 23.

²⁴⁰ *Auckland Weekly News*, 4 March 1871, p. 22.

²⁴¹ Memorandum of Wiremu Hikairo, 20 April 1871, 'Appendix to Colonel Haultain's Report on the Working of the Native Land Court Acts', *AJHR*, 1871, A-2A, p. 32.

²⁴² *Auckland Weekly News*, 21 January 1871, p. 4.

²⁴³ *Auckland Weekly News*, 14 January 1871, p. 12.

claiming the Te Aroha Block, who live at the hostelry, Mechanics' Bay (Prussia), proceeded to besiege the rival claimants living in Fort Britomart (Paris). Like the Prussians at Versailles, the besiegers piled up a quantity of "kai" in front of the main entrance to Paris, and proceeded to open fire upon the city with their tongues, which evidently did fearful execution upon the garrison. The latter promptly closed the main gate, manned the ramparts, and replied spiritedly to the fire of the besiegers. The losses were severe on both sides, and there is no doubt that many tongues were completely dislocated. Ultimately the besiegers returned to Prussia (Mechanics' Bay), leaving their enemies in possession of Paris (Fort Britomart). The exact losses on either side have not been ascertained, but we believe the provisions suffered fearfully.²⁴⁴

As was to be expected, most of the evidence presented repeated that given at the first hearing, with both sides claiming to have won the battle of Taumatawiwi and to have taken possession of the land afterwards. Maning stated there was 'a great deal' of 'free swearing' in this case, 'and on many important points the evidence was conflicting'. In mid-March he produced a list of witnesses to be recalled because of this; 'as the Court had sat so long already, a day longer would make little difference'.²⁴⁵ As an example of how evidence was believed to be fabricated, a Ngati Haua witness was charged by Mackay of telling a Pakeha Maori, Albert John Nicholas,²⁴⁶ 'that if he would say in Court that the N. maru were led out like pigs' after Taumatawiwi, 'you would give him a piece of land and make a rangatira of him'. This charge was denied.²⁴⁷

This time much more evidence was produced about those who had lived on the block, both Marutuahu and Ngati Haua witnesses claiming not to have seen any of the opposing party there.²⁴⁸ Some Marutuahu, who had been young in the 1830s, simply referred to 'my people' having cultivated on it.²⁴⁹ Sometimes the principal people of hapu were given and the numbers of

²⁴⁴ *Daily Southern Cross*, 2 February 1871, p. 2.

²⁴⁵ Native Lands Court, *Auckland Weekly News*, 18 March 1871, p. 7.

²⁴⁶ See paper on Maori in Hauraki in the nineteenth century.

²⁴⁷ Maori Land Court, Auckland Minute Book no. 2, pp. 260-261.

²⁴⁸ For example, Kereama Tauwhare: Maori Land Court, Auckland Minute Book no. 2, pp. 240-241, 251-252.

²⁴⁹ For example, Te Kapihana Te Tuhi: Maori Land Court, Auckland Minute Book no. 2, p. 185.

their followers, but not the names of others living there.²⁵⁰ Some were able to give the names of the various cultivations.²⁵¹ Others listed several people who lived there.²⁵² Ngati Haua claimed that they regularly planted, harvested, and caught eels and pigs, although they did not live at Te Aroha all the time but in their own land either outside or on the southern edge of the block.²⁵³ Marutuahu who lived and cultivated on it insisted that no Ngati Haua lived there;²⁵⁴ one named two Ngati Maru living there in 1849, when he travelled with a war party to Matamata in a dispute over a woman.²⁵⁵ Wirope Hoterene Taipari stated that he had been told of Ngati Tumutumu living there from 1845 until 1852, 'the year of the measles'; after that year, they continued to visit and to use the land until 1863, when the Waikato War broke out. Amongst those living there was his uncle, a rangatira of Ngati Maru, who resettled there in 1867. During this war the 'friendly' Ngati Maru, meaning supporters of the government, went to the Thames area to live, and afterwards some who had fought it were given refuge by the runanga of Hauraki at Matauraura and Manawaru.²⁵⁶

After the peace in Feb 1864 some of the friendly N. Maru went back to the Aroha. Some of those who made the peace also went back there. In the year 1865 the Waikatos left the Aroha. They left because they had no clothes and there were no Pakehas there – they had lost all they had. N. Maru did not drive them away. They invited them to dig gum at Hikutaia. Waraki invited them and all N. maru consented. Waikatos numbered about 200. Waraki also brought them to Te Puriri. I never heard the Waikatos say they were put on the Aroha by N. haua and N. tumutumu.²⁵⁷

²⁵⁰ For example, Keepa Te Wharau: Maori Land Court, Auckland Minute Book no. 2, p. 218.

²⁵¹ For example, Keepa Te Wharau: Maori Land Court, Auckland Minute Book no. 2, pp. 214-215, 219; Hikerero Puru: Maori Land Court, Auckland Minute Book no. 2, p. 255.

²⁵² For example, Temi Te Rua: Maori Land Court, Auckland Minute Book no. 2, p. 272.

²⁵³ For example, Kereama Tauwhare: Maori Land Court, Auckland Minute Book no. 2, pp. 234-237, 241-242, 248, 251, 258, 259-260, 264; Penetito: Maori Land Court, Auckland Minute Book no. 2, p. 266-267, 269-270, 272.

²⁵⁴ For example, Hori Timo: Maori Land Court, Auckland Minute Book no. 2, pp. 291-292.

²⁵⁵ Hikerero Puru: Maori Land Court, Auckland Minute Book no. 2, p. 253.

²⁵⁶ Maori Land Court, Auckland Minute Book no. 2, pp. 279-280, 283-284.

²⁵⁷ Maori Land Court, Auckland Minute Book no. 2, p. 281.

Matiu Poono, who cultivated on the block between the Taranaki and Waikato wars, stated that 20 Ngati Maru lived at Omaha, that tribe's pa at Te Aroha, one year before the Waikato War.²⁵⁸ In response to the Ngati Haua claim that Ngati Maru rushed to cultivate land at Te Aroha after the court's decision in 1869, Karauna Hou insisted that they had lived there previously. He and others of Ngati Tumutumu did not cultivate there as Ngati Maru, for they were not serfs of the latter but 'equals'.²⁵⁹ Te Wharenui's claim was less than Ngati Maru; Karauna claimed to have said in the previous hearing that 'he should come behind us', but the clerk noted '(Not so)'. He denied admitting Te Wharenui's claim outside the courtroom.²⁶⁰ Mokena Hou listed several Ngati Maru beside himself who had lived there before and after the Taranaki War.²⁶¹ Referring to what would later become contentious, he agreed with Karauna that Ngati Tumutumu's claim for the land did 'not conflict with' that of Ngati Maru.²⁶² Asked whether Ngati Paoa, Ngati Tumutumu, Ngati Tamatera, Ngati Whanaunga, and Ngati Maru had 'equal claims on the Aroha', his reply was unqualified: 'Yes'.²⁶³ He claimed that the first time he saw Te Wharenui on the land was last year: 'I drove him off', because he had no claim.²⁶⁴

The court was particularly interested in evidence provided by Pakeha, presumably because it was seen as more disinterested. John Alexander Wilson, born in 1829, son of the missionary of the same name,²⁶⁵ stated that he had first travelled past the land in 1836 and 1837, when 'very young'. When driving a herd of cattle past on his last visit, in 1851, he 'saw cultivations at the foot of the Aroha. They were from the crossing at Te Ruakowhawha and Te Rae o te Papa'. The cultivations 'on both sides of the road' were 'very extensive', and many' Ngati Koi and possibly other hapu were living there. Only the eastern side of the river was occupied and cultivated by Ngati Tumutumu. On the western side, belonging to Ngati Haua, there was 'not one native' living 'as far as Waiharakeke – it was quite

²⁵⁸ Maori Land Court, Auckland Minute Book no. 2, pp. 294-295.

²⁵⁹ Maori Land Court, Auckland Minute Book no. 2, p. 322.

²⁶⁰ Maori Land Court, Auckland Minute Book no. 2, p. 323.

²⁶¹ Maori Land Court, Auckland Minute Book no. 2, pp. 337, 338-341, 347.

²⁶² Maori Land Court, Auckland Minute Book no. 2, p. 337.

²⁶³ Maori Land Court, Auckland Minute Book no. 2, p. 345.

²⁶⁴ Maori Land Court, Auckland Minute Book no. 2, pp. 346, 347.

²⁶⁵ See *New Zealand Herald*, 29 April 1909, p. 6; Jinty Rorke, 'John Alexander Wilson', *Dictionary of New Zealand Biography: vol. 2: 1870-1900* (Wellington, 1993), pp. 586-587.

a desert'. After the first court's judgment, he had written to his father, 'an intimate friend of Te Waharoa's' who had lived for 'about three years between Puriri and Matamata'; he had confirmed which tribe owned which side of the river.²⁶⁶ (The 1836 diaries of his father, a missionary in the Hauraki and Matamata districts, implied that Te Aroha was then either deserted or only lightly occupied.)²⁶⁷

The next witness, Albert John Nicholas, married a member of Ngati Haua and then, in the late 1850s, a Ngati Maru woman.²⁶⁸ When he had stores at Matamata and then at Waiharakeke in the 1840s and 1850s, he was told that the Aroha belonged to Ngati Maru.²⁶⁹ Upon shifting to Waiharakeke he was asked by Ngati Haua 'not to let my men steal any of the N. maru pigs from the Aroha'.²⁷⁰ The Ngati Haua then living near the block were 'rather timid' because they feared Ngati Maru, not believing that peace had truly been made; they could not take their pigs down river but had to go via Piako or Tauranga, and their chiefs warned them not to trespass on Ngati Maru land.²⁷¹ He believed Ngati Haua would not have settled at Waiharakeke had he not settled there first.²⁷² Those Ngati Haua making canoes at Manawaru in the early 1860s did so by permission of Taraia, who required them 'to pay dearly' for the trees felled.²⁷³ In 1847 and 1848 only one member of Ngati Maru lived at Te Aroha, but on several occasions others would go there to catch pigs, staying for a week at a time. Ngati Haua who went there to steal pigs told him they did not live there. After the Waikato War, Ngati Tumutumu had a settlement above Ruapa, a site on the river near Te Aroha, and Ngati Maru placed some Ngati Hinerangi on this land. When he visited in 1864, he did not see anyone

²⁶⁶ Maori Land Court, Auckland Minute Book no. 2, pp. 153-154.

²⁶⁷ See J.A. Wilson, *Missionary Life and Work in New Zealand, 1833 to 1862* (Auckland, 1889) pp. 45-46; *Mission and Moko: Aspects of the work of the Church Missionary Society in New Zealand 1814-1882*, ed. Robert Glen (Christchurch, c. 1992), pp. 211-212.

²⁶⁸ Maori Land Court, Auckland Minute Book no. 2, pp. 242, 249.

²⁶⁹ Maori Land Court, Auckland Minute Book no. 2, p. 242.

²⁷⁰ Maori Land Court, Auckland Minute Book no. 2, p. 243.

²⁷¹ Maori Land Court, Auckland Minute Book no. 2, pp. 243-245, 250-251.

²⁷² Maori Land Court, Auckland Minute Book no. 2, p. 252.

²⁷³ Maori Land Court, Auckland Minute Book no. 2, pp. 246-247.

there.²⁷⁴ No Ngati Haua told him that they had conquered Te Aroha because of Taumatawiwi.²⁷⁵

Another Pakeha Maori, William Nicholls, who gave evidence for Ngati Haua,²⁷⁶ stated that in the mid-1840s neither Ngati Haua nor Ngati Maru lived on the block, but he did see signs of 'small plantations' the former had 'for feeding their pigs'.²⁷⁷ In the middle of the following decade, 'a great many' Ngati Haua were cultivating from Waiharakeke to Manawaru, when only a couple of Marutuahu lived at Te Aroha.²⁷⁸ He gave evidence about the few people in the district; the first time he saw Tutuki, a rangatira of Ngati Tumutumu, living there was in 1868.²⁷⁹

In March, with the support of Te Raihi,²⁸⁰ Te Wharenuui, who had been granted Ruakaka in 1869, sought to obtain the Omahu portion of the block, provoking legal argument about whether, not having sought a hearing earlier, he could obtain one now. Evidence proved that as the ancestor he claimed the land through, Parakauri, was a Ngati Maru, he could not claim an interest separate from this tribe. A request that Te Wharenuui be recalled to sort out 'a mistake respecting his descent' was declined by the court.²⁸¹

On 23 March, the court gave its judgment

in favour of the Marutuahu Tribes. A written statement would be read at a future time, giving the reasons on which this judgment was founded. This judgment however to be the final one. This course was adopted in order to allow of the Natives returning to their homes, instead of waiting for the fuller judgment which would take some time to prepare.²⁸²

All the judges and assessors were unanimous in their verdict, which was received 'without any demonstration on either side'. The court decided

²⁷⁴ Maori Land Court, Auckland Minute Book no. 2, pp. 244, 248, 250-252.

²⁷⁵ Maori Land Court, Auckland Minute Book no. 2, p. 253.

²⁷⁶ Maori Land Court, Auckland Minute Book no. 2, p. 346.

²⁷⁷ Maori Land Court, Auckland Minute Book no. 2, pp. 340-341.

²⁷⁸ Maori Land Court, Auckland Minute Book no. 2, pp. 341-343.

²⁷⁹ Maori Land Court, Auckland Minute Book no. 2, pp. 344-346.

²⁸⁰ Maori Land Court, Auckland Minute Book no. 2, p. 346.

²⁸¹ Native Lands Court, *Auckland Weekly News*, 18 March 1871, p. 7.

²⁸² Maori Land Court, Hauraki Minute Book no. 4, pp. 249-250.

not to insist on fees, and would issue a certificate of title after a survey was made 'at any time within two years'.²⁸³

Eight years later, Fenton later published the full decision in his *Important Judgments Delivered in the Compensation Court and Native Land Court, 1866-1879*; as an indication of the care taken in considering the evidence, the printed version covered 25 pages.²⁸⁴ After summarizing the basic arguments, the judgment examined the relationship between Marutuahu and Waikato before 1830 in response to the incursions of Ngapuhi, 'who were in those days the scourge of New Zealand'.²⁸⁵ For fear of Ngapuhi, the two tribes for a time were 'accidentally living in peace', but soon Marutuahu started to try to occupy Ngati Haua land permanently, leading to 'murders, skirmishes, battles, and massacres'.²⁸⁶ The judges wrote of the conflicts just prior to Taumatawiwi in dramatic terms:

War had attained its most terrible and forbidden aspect; neither age nor sex was spared; agriculture was neglected; the highest duty of man was to slay and devour his neighbour; whilst the combatants fought in front, the ovens were heating in the rear; the vigorous warrior, one moment fighting hopefully in the foremost rank, exulting in his strength, laying enemy after enemy low, thinking only of his war boasts when the victory should be won; stunned by a sudden blow, instantly dragged away, hastily quartered alive, next moment in the glowing oven; his place is vacant in the ranks, his very body can scarcely be said to exist. Whilst his flesh is roasting the battle rages on, and at night his remains furnish forth a banquet for the victors, and there is much boasting and great glory.²⁸⁷

Neither side having 'having gained any marked advantage over the other, they at the same time, and, as it were by common consent, made up their minds to end the contest in one great and final battle'. Te Hira and several hundred men did not participate, arriving late 'for some unexplained reason', and Taraia was not present either, being on an expedition elsewhere.²⁸⁸ As both parties claimed to have won at

²⁸³ *Auckland Weekly News*, 25 March 1871, p. 14.

²⁸⁴ Fenton, pp. 109-133.

²⁸⁵ Fenton, p. 110.

²⁸⁶ Fenton, p. 111.

²⁸⁷ Fenton, p. 112.

²⁸⁸ Fenton, pp. 112-113.

Taumatawiwi and as Ngati Haua based their claim solely on their victory and its consequences, they noted that Ngati Haua had made several admissions: that Marutuahu had owned the Aroha block before the battle, had never ceded it afterwards, and that Ngati Haua had not ‘conquered, depressed, or at all weakened the Marutuahu tribe, or reduced its military force as compared to their own’.²⁸⁹ Deciding on whether Aroha was acquired through conquest was exceptionally difficult, ‘greatly enhanced by conflicting evidence on many points of importance, by equivocation and falsehood of some witnesses, by every effort to deduce from undeniable facts improper conclusions’, and in particular by the efforts of the lawyers to prove their cases. Evidence about Taumatawiwi given by both sides was similar, allowing for ‘some little colouring and natural prejudice’.²⁹⁰ In the detailed description of the battle it was noted that Ngati Haua suffered ‘probably’ four times the number of casualties but had driven their opponents back after Marutuahu ran out of ammunition. This retreat was not a rout, and when Marutuahu reached their pa and obtained more powder, they drove Ngati Haua back and had the honour of killing the last man as well as the first.

This fight had lasted from early morning, before either party had partaken of food, till late in the afternoon; and when the sun went down the Marutuahu were secure, though discomfited, in their pa; and the Ngatihaua, the heat and the elation of battle departed, decimated, bleeding, and utterly exhausted, horrified at the loss of many of their best warriors, their chief Te Waharoa wounded, the re-action from over-exertion and physical excitement weighing them down and giving rise to a thousand unwonted apprehensions and alarms, remained the master of the battle-field, and held in their hands the bodies of the enemy. They had won the battle of Taumatawiwi.²⁹¹

However, ‘a victory is not necessarily a conquest’, and a party beaten on one day ‘may be more ready for the battle on the next’ than their opponents. Ngati Haua admitted that the night after the battle was spent ‘in great exertions to burn their dead lest they should fall into the hands of the enemy’, and despite being exhausted they went some distance to find dry timber. ‘It does not seem likely that they would have undertaken this

²⁸⁹ Fenton, p. 113.

²⁹⁰ Fenton, p. 114.

²⁹¹ Fenton, p. 115.

excessive and unusual labour unless they had at the time considered themselves in a very unpromising condition', and not victors who had acquired a large area of enemy territory, the nearest point of which was 25 miles away.²⁹² The court cited Te Tuhua of Marutuahu asking Te Waharoa, in the negotiations after the battle, 'Why are you spoiling my provisions', and noted that burning the dead of your own side was 'a very unusual practice', never adopted 'except under very desperate circumstances, when hope is lost of saving the bodies from the enemy's ovens in any other way'.²⁹³

The decision noted that, being in an unprotected area, Te Aroha was not continually occupied by Marutuahu, who visited periodically to catch the eels for which it was famous. All Marutuahu had to prove was 'that they could come upon the land at will, cultivate or make other use of it when they chose, and that they prevented the settlement or permanent occupation of the land by others'. As Ngati Haua admitted the land had not been ceded to them, they had to prove that they entered 'into practical possession', occupying it 'exclusively, undoubtedly, and permanently' and preventing Marutuahu from making any use of it 'which might be construed as acts of continued ownership'. Having admitted that 'they did not conquer, subjugate, or even weaken the Marutuahu', the sole basis for their claim could only be permanent and exclusive ownership. 'Mere transient intrusion by a few persons unable to hold their position against the Marutuahu, would be but our ordinary trespass, and establish no right', but if Marutuahu tacitly acquiesced in this occupation, ownership by Ngati Haua 'might well be founded in Maori usage and custom'.²⁹⁴ As both sides gave equal amounts of contradictory evidence, the court had been able to reach its verdict only 'with the greatest difficulty, and by facts brought out chiefly by a close cross-examination of witnesses, by the evidence of a few uninterested persons, and by a close enquiry and examination into the condition of the two tribes' and their relations from 1830 until recently.²⁹⁵

Although it was 'hotly contested' how negotiations between the two sides began after Taumatawiwi, each saying the other asked to negotiate first, the court considered this to be 'of little consequence'. What was important was that 'an agreement, truce, or convention was made' whereby

²⁹² Fenton, pp. 115-116.

²⁹³ Fenton, p. 119.

²⁹⁴ Fenton, p. 117.

²⁹⁵ Fenton, p. 118.

Marutuahu agreed to depart for Hauraki, unmolested, taking all their property. One Ngati Haua witness had quoted Te Waharoa saying that he took back the land in his territory formerly occupied by Marutuahu, other witnesses that he had told Marutuahu to return to their own country, of which Aroha was a part, one that he would 'take all the land up to the Aroha', and only two that he intended taking the Aroha, which was later modified to say that his concern was to regain land at Maungatautari and Horotiu.²⁹⁶

After Taumatawiwi, 'the contending tribes remained as before, able only to inflict mutual disaster, but without any appearance of one party being able to conquer the other'. When negotiating after the battle ceased, Marutuahu wished to return to Hauraki, having heard that Pakeha were selling guns and powder there, but could not do so without dividing and endangering their forces. Te Waharoa, wanting them to leave, said they would be 'led out'; as his words could be translated as 'guided out' or 'escorted out', they did not imply humiliation or disgrace. Te Waharoa meant that they would be escorted by rangatira 'as hostages or pledges', who would be killed if Marutuahu were attacked, and the court was satisfied that Marutuahu were accompanied to Thames by a rangatira and two 'chief women'. When a Pakeha at Thames told some young Marutuahu that they were 'led out like pigs', Taraia used this charge to excite his people against Ngati Haua. As this became a common slight, Ngati Haua made much of it to prove that they had thoroughly defeated Marutuahu and were in a position to take any land they chose, but the judges considered far too much time was wasted during the hearing on this issue, which was not important for determining ownership.²⁹⁷

Citing Ngati Haua evidence that, one month after Marutuahu had left their district, Te Waharoa and others went to the Aroha block and took formal possession, dividing up the land and eel ponds and weirs before returning to Matamata to live, the court determined that this 'merely formal or nominal act' without any subsequent permanent occupation 'could give them no title by Maori usage' or English law.²⁹⁸ Marutuahu had given evidence that for 12 years after Taumatawiwi they had 'made successful and aggressive war' against Ngati Haua and their allies, 'not on the Aroha, where they could never find anyone to oppose them, but chiefly in the heart

²⁹⁶ Fenton, pp. 118-119.

²⁹⁷ Fenton, pp. 119-121.

²⁹⁸ Fenton, p. 122.

of their own country, and in their populous settlements'. Only on one occasion did Waikato attack, and then not near the Aroha, and their attack was repulsed. There was no occupation of the Aroha but merely 'a series of furtive trespasses, made for a few days at a time for the purpose of catching eels in the absence of the Marutuahu, who seldom inhabited permanently that part of their estate'. The few Ngati Haua living on the block in the 1840s were there with the permission of Taraia on condition that they did not cut any valuable timber or make any claim to ownership. In around 1864, when for the first time Waikato and Ngati Haua were living on the land 'in any considerable numbers', they were placed there by some Marutuahu chiefs, with the consent of the tribe's runanga, because they had been driven from their land during the Waikato War.²⁹⁹

Faced with 'very contradictory' evidence on 'several material points', the court 'had to trust chiefly to the evidence of a few apparently uninterested witnesses, such admissions as have been made by either party, chiefly under cross-examination, and such parts of the general evidence as seem trustworthy'. Accordingly, it quoted extensively from the evidence of one Pakeha Maori, John Cowell,³⁰⁰ who when trading with Ngati Haua in the early 1830s had found them to be in continual fear of Marutuahu, not daring to come out of their Matamata pa when attacked and not resisting when driven off their own land at Waiharakeke.³⁰¹ Albert John Nicholas was also quoted at length to prove Ngati Haua fear of Ngati Maru and that the latter were cultivating and catching pigs on the Aroha block. Those Ngati Haua living there at one time were allowed to do so by Ngati Maru while they made canoes, and had to pay Taraia 'dearly' for permission.³⁰²

The judges noted that Ngati Haua continually spoke of 'cultivation' on the Aroha but seldom of 'occupation'.³⁰³ Te Raihi's evidence was cited to show that cultivation was brief and on a small scale for fear of Marutuahu discovering them:

The only example of cultivation he gives, and of which he seems to know anything positive or personally, was during a hasty visit to catch eels, when the Marutuahu were known to be absent, when he and his companions planted a few potatoes, which

²⁹⁹ Fenton, pp. 122-123.

³⁰⁰ See *New Zealand Herald*, 2 August 1880, p. 5, 5 September 1929, p. 16.

³⁰¹ Fenton, pp. 123-124.

³⁰² Fenton, pp. 124-125.

³⁰³ Fenton, p. 126.

occupied them, by his own account, only two weeks (one of his companions says four days), and that having done this they went away with their eels to Matamata, and did not come back for a year, and then only to catch some eels at a different place, and no cultivation or permanent residence was attempted.³⁰⁴

Careful examination of Ngati Haua evidence³⁰⁵ showed that Ngati Maru never attacked them there because ‘any straggling eel-catchers or pig-stealers who might have been on the land always fled with precipitation on the first news of the Marutuahu approach’. Despite claiming to have held the land for 40 years, there was no evidence of Ngati Haua holding it, even for a short time, with sufficient force to defend it. During the 1830s, ‘not one shot was fired nor one blow struck on the Aroha, simply because the Marutuahu could never find anyone there to fight with’.³⁰⁶ The alleged occupation was ‘in fact a dangerous game of hide and seek, played by a few individuals with the Marutuahu, and at the risk of their lives, for the sake of getting more eels, now and then, and when the Marutuahu were absent’. The only place that Ngati Haua cultivated extensively was Waiharakeke, their own land, from which they were driven by Marutuahu.³⁰⁷

Turning to the Marutuahu evidence, the court stated that ‘it must either reject much of that evidence as false, without any just reason for doing so, or must conclude that the Marutuahu have proved’ several points. They did not ‘relax their hold’ on the Aroha block and ‘made active and successful war’ against Ngati Haua and its allies’ in Ngati Haua country. This ‘aggressive warfare’ meant that Ngati Haua were unable to occupy the Aroha ‘in any way that would give or indicate title or ownership according to Maori usage’. During the 12 years of hostility after Taumatawiwi, the only people living ‘in anything like a permanent manner on the Aroha lands were some seven or eight men and their families’, Parakawere being the ‘principal person’. Although some were related to Ngati Haua, they fought for Marutuahu at Taumatawiwi and elsewhere. Those Ngati Haua who lived unmolested there more recently did so by permission of Marutuahu, who did not concede any right of ownership. Since 1830, Marutuahu had

³⁰⁴ Fenton, p. 127.

³⁰⁵ Fenton, pp. 128-132.

³⁰⁶ Fenton, p. 128.

³⁰⁷ Fenton, p. 129.

made use of the land 'at will' and 'as fully and frequently' as 'they chose to do'. Accordingly, the land was awarded to Marutuahu.³⁰⁸

The *Thames Advertiser* later commented that 'because of new evidence, or from some other reason, this most eccentric and irregular of Courts' had given a judgment 'directly in the teeth of its first'. It thought that 'probably not one of our readers cares a fig which party owns Te Aroha', apart from facilitating its acquisition by Pakeha.³⁰⁹

AFTERMATH OF THE SECOND JUDGMENT

Early in February 1871, an Ohinemuri correspondent reported that Maori in that district were 'beginning to get very uneasy about the Aroha case', for they had received a letter stating that Ngati Haua had won the case, which 'at once made the Ohinemuri claimants to the block talk fight'. He was certain that, whatever the decision, 'there will be a quarrel, as both sides will have it that they are the proper owners. Te Moananui has written to the Ngatihaua, ordering them off the land at once, and should they fail to pay attention to his words, he means to have recourse to forcible measures for their ejection'.³¹⁰ An Anglican clergyman, Wiremu Turipona, wrote to Te Moananui 'at the suggestion of the runanga of Hauraki' assuring him that he would be informed of the result of the re-hearing 'so that steps might be taken to kill the Ngatihaua should the land be again awarded to them'.³¹¹ At the beginning of March, Ngati Maru prepared for the verdict:

They mean to have men enough on the ground to look after their interest. A number of the tribe, with old Riwai in command, arrived on the disputed block last Sunday and talk large and in a threatening manner as to what they mean to do with the Ngatihaua. They say they will take possession of all settlements, destroy the crops, kill pigs, and take all horses found on the land.

Three men were on constant look out for surveyors, who would be given three warnings to stop work before being shot. Some Ngati Haua

³⁰⁸ Fenton, pp. 132-133.

³⁰⁹ Editorial, *Thames Advertiser*, 12 February 1875, p. 2.

³¹⁰ Ohinemuri Correspondent, *Auckland Weekly News*, 11 February 1871, p. 6.

³¹¹ Native Lands Court, *Thames Advertiser*, 17 July 1878, p. 3.

living there had departed to consult their tribe and obtain reinforcements, being afraid of 'personal violence'.³¹²

Ngati Haua were not only upset at the verdict, they were forced to pay £575 7s for their counsel, interpreter, transport to and from the hearing, government rations and other food, and for William Nicholls to give evidence on their behalf.³¹³ What Marutuahu paid was not revealed, but some of them agreed that, should they open the block to mining, they would have to charge miners 'a high figure, in order to repay the heavy lawyers' expenses which have been incurred, and the cost of living' in Auckland for two months.³¹⁴

The judgment enabled Ngati Maru rangatira to return home, 'which they are very anxious to do', in order to stop Te Hira from preventing the passage of the mail. The press reported that the land would be surveyed 'at once and the much-coveted Aroha will be at once thrown open. This course has been decided on, and all the chiefs are unanimous on the subject'.³¹⁵ The court's decision created 'much excitement' at Thames, with most Ngati Maru expecting it to speed up the opening of the land. 'In the case of opposition' from Ngati Haua, they were 'prepared to make a fight for it'.³¹⁶ Shortly after the judgment, when Donald McLean attended a Thames meeting with those who had returned from the hearing, Taipari contrasted the 'happy and contented' state of Hauraki with Waikato, whose 'evil deeds have caused their destruction. Hauraki reaches on to the Aroha, which has been declared to belong to us'. Later, Te Whare Ki, described by a correspondent as 'an intelligent chief', spoke against the King party stopping the mail. 'The Aroha dispute is settled, and that breaks down (King's) obstacles. I shall take Europeans up to the Aroha and settle them'.³¹⁷

All those with interests in the land were reported to getting ready to go to a meeting at Ohinemuri 'to decide upon boundaries'. Optimistically it was reported that 'all the owners seem inclined to open the block to goldminers', but some rangatira hinted they would be 'compelled to fix the mining fee to

³¹² *Auckland Weekly News*, 4 March 1871, p. 7.

³¹³ *AJHR*, 1871, A-2A, p. 27.

³¹⁴ *Auckland Weekly News*, 8 April 1871, p. 5.

³¹⁵ *Auckland Weekly News*, 1 April 1871, p. 6.

³¹⁶ *Auckland Weekly News*, 1 April 1871, p. 10.

³¹⁷ A Correspondent, 'Mr McLean at the Thames. Important Native Meeting at Shortland', *Auckland Weekly News*, 1 April 1871, p. 15.

Europeans at a high figure, in order to repay the heavy lawyers' expenses ... and the cost of living while attending the Court in Auckland for two months'. It was suggested that 'Te Hira should be allotted a share in the proceeds which result from the opening of the block'. It was claimed there was 'unquestionably a very strong disposition' amongst 'many' Maori 'to sell out their interests altogether upon allotment, while other chiefs have expressed their willingness to lease land in the neighbourhood of Te Aroha to Europeans, and to protect them in the possession of it. Some chiefs have proposed to make good all purchases of land on the block formerly made by Europeans'.³¹⁸ But no sooner was this report in type, ready to be printed, than a Thames correspondent sent less sanguine news:

The natives say that the Te Aroha dispute may yet terminate in bloodshed, as the opposition to the proposed survey of the block is certain to be very strong on the part of the Ngatihauas, who have assembled in force at Matamata, fully resolved to resist to the death. Now the Ngatimarus are equally determined to enforce their legal claims, and accordingly tomorrow a considerable number, under the chief Karauna, proceed up the river to the disputed territory, their avowed purpose being "to have a look round, and see what's going on." Others of the tribe are to follow them up; and, from what I could gather on the subject, I am of opinion that they are resolved to take possession and push on the survey.³¹⁹

In 1878, Karauna recalled 'a number of persons from the tribes going up the Waihou river to give effect to the judgment' by turning off Ngati Haua, 'but they were not there. Some stopped after the main party returned, to clear and plough, and to breed pigs'. Ngati Haua were absent because Riwai Te Kiore, Meha Te Moananui, and other Marutuahu rangatira had gone there during the hearing and expelled the Hauhau portion of Ngati Haua, who had not gone to Auckland to observe the case.³²⁰ Meha's son, Hirawa, confirmed this expulsion.³²¹ There had been 'about a fortnight between' two expeditions to Te Aroha by members of all four tribes

³¹⁸ *Daily Southern Cross*, 4 April 1871, p. 3.

³¹⁹ Thames Correspondent, *Daily Southern Cross*, 4 April 1871, p. 3.

³²⁰ Maori Land Court, *Thames Advertiser*, 12 July 1878, p. 3.

³²¹ Maori Land Court, Hauraki Minute Book no. 10, p. 465.

in the Marutuahu confederation; after two days, ‘the bulk’ of them returned, Karauna being one of those who remained to plough the land.³²²

Tinipoaka, of Ngati Tamatera, stated that when Te Moananui ordered Ngati Haua off the land ‘they did not remain after they received the order’. When their cattle were discovered there, ‘a Committee was held and it was decided to turn any thing off’; Ngati Rahiri ‘agreed to this and drove the cattle off’.³²³ Penetito Te Tiwha, a Ngati Haua rangatira, confirmed that the Ngati Haua who had been living on the block ‘had already left and gone to Kooti’. Penetito went to Te Aroha and ‘brought back 37 Head of Cattle and put them on the Waiharakeke’.³²⁴

Te Wheoro predicted that Ngati Maru ‘will not venture to survey it, as there would certainly be war over it. Had the land been divided between the contending parties there would have been no fighting about it, for there would have then been some justice about it’. He did not accept the judgment, for it was ‘false and unjust, and not according to Maori custom. The only way to settle the matter peacefully will be for the Government to divide the land’. If Ngati Maru received a Crown grant, ‘all the friendly Natives of the other tribes will join the Hauhaus to fight for it’. Should Ngati Maru open the land to Pakeha there would be fighting, for the Waikato tribes would not let Pakeha ‘take possession, and the Hauhaus would fight them. “Why should the Pakeha go and take the land with the Ngatihaua fires still alight upon it?” It would have been better if the Court had refused to hear the case’.³²⁵

Without specifying this particular example, the assessor in the first hearing argued against rehearings because these made the losing party ‘dissatisfied with every judgment. It would be better to let the first judgment stand’.³²⁶ A member of the Arawa tribe who was an assessor in the land court and a clerk in the chief judge’s office cited this case as one

³²² Maori Land Court, Hauraki Minute Book no. 10, pp. 386-387.

³²³ Maori Land Court, Hauraki Minute Book no. 10, p. 281.

³²⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 304.

³²⁵ ‘Joint Evidence given by Te Wheoro and Paora Tuhaere’, 18 April 1871 [dated 18 February 1871 on original, but the land had not been awarded to Ngati Maru at that time], ‘Appendix to Colonel Haultain’s Report on the Working of the Native Land Court Acts’, *AJHR*, 1871, A-2A, p. 27.

³²⁶ ‘Hemi Tautari, Bay of Islands in reply to questions forwarded to him’, n.d. [1871], ‘Appendix to Colonel Haultain’s Report on the Working of the Native Land Court Acts’, *AJHR*, 1871, A-2A, p. 30.

which could have been handled differently. If ‘discussed by an ordinary Maori runanga they would perhaps have arrived at a right conclusion, and perhaps it would have been more satisfactory to them, and they could have brought it to the Judge for ratification’. Only fears that solders would interfere had prevented ‘trouble’ over the judgment, but he noted that Ngati Haua Hauhau were gathering and might fight. ‘I believe it would have been better if the case had never been brought before the Court’. He believed some Pakeha who had offered to buy land at Te Aroha had advised Ngati Maru to survey it.³²⁷

Because Te Wheoro, on behalf of all the Waikato tribes, asked for another hearing, Fenton thought the judgment should be translated into Maori.³²⁸ On 8 April, Te Raihi wrote to Donald McLean saying the judgment was wrong and that Ngati Haua would occupy Te Aroha.³²⁹ A week later, when in Hamilton, Te Raihi wrote to Te Wheoro, asking him to return:

The friendly Natives are to collect at Tamahere or at Maungakawa on the 25 of this month.... Te Aroha will be occupied at once it is on account of the darkness caused by Te Aroha being given to the Ngatimaru by this Court, the investigation was not clear in the deception by the Court held in Auckland.³³⁰

Ngati Haua, Waikato, and ‘all friendly natives’ agreed to occupy Te Aroha ‘at once’, choosing 25 April because of the time taken ‘sending letters to the tribes’.³³¹ But then it was reported that Waikato had held a korero that ‘decided not to oppose the occupation of the Aroha block but to submit

³²⁷ Memorandum of Wiremu Hikairo, 20 April 1871, ‘Appendix to Colonel Haultain’s Report on the Working of the Native Land Court Acts’, *AJHR*, 1871, A-2A, pp. 31, 32-33.

³²⁸ F.D. Fenton to Donald McLean, 19 April 1871, Native Land Court, Memoranda Book 1867-1879, p. 77, BAIE 4307/1a, ANZ-A.

³²⁹ Te Raihi to Donald McLean, 8 April 1871, Maori Affairs Department, MA 1, 13/85, ANZ-W.

³³⁰ Te Raihi to Wi Te Wheoro, 15 April 1871, Maori Affairs Department, MA 1, 13/85, ANZ-W.

³³¹ Te Raihi to Paora Tuhaere, 15 April 1871; Hakiriwhi to Paona, 18 April 1871, Maori Affairs Department, MA 1, 13/85, ANZ-W.

to the decision' and had written to Ngati Maru 'inviting them to come and take peaceable possession'.³³²

On 20 April, Tarapipipi arrived in Hamilton with about 20 Hauhau of Ngati Paoa, and told McLean's private secretary, Robert Smelt Bush, a future magistrate and mining warden,³³³ 'that he should go to the Aroha to oppose the survey of that block on behalf of the King'. After Tarapipipi left, a war party of 36 armed Waikatos arrived and said 'they had determined to take possession of Te Aroha, as they considered that they had been unjustly treated' in the judgment. 'The Waikato Natives seemed much more bitter than the Ngatihaua. They all stated that upon the arrival of the Ngatitipa they should proceed to the Aroha'. But in discussions with 'Te Raihi and others', Bush

got them to acknowledge distinctly that it was only a demonstration on their part to get the Government to grant a rehearing. They are going to Waiharakeke, the southern boundary of the Te Aroha Block. This land belongs to the Ngatihinerangi Tribe. Their object in doing this is to prevent the Ngatimarua from making a survey of Te Aroha; it is not their intention to take any aggressive measures, but simply to reside there.

Tana also told me that they, the Hauhaus of Waikato, did not approve of what they were going to do, and that they were not to go to the Aroha. This may only be policy on his part. I know that he and the rest of the Hauhaus are afraid to aid and assist the friendlies openly. They are afraid of implicating themselves with the Government, as they know that Ngatimarua have the law on their side; hence their attempts to dissuade the two people from going to war.

From all that I saw and heard, I am of opinion that what they are now doing is simply a demonstration. They appear to be very much afraid lest the Government assist the Hauraki tribes in upholding the law; I am therefore of opinion that the whole affair will die out in a short space of time, unless some person be killed or wounded by accident.

The friendly Natives blame the Hauhaus for this. Tana and others of the Ngatihaua Hauhaus have returned to Maungatautari; it is reported that they will return to Te Aroha, to try and dissuade the two people from fighting.³³⁴

³³² *Auckland Weekly News*, 15 April 1871, p. 11.

³³³ See *Auckland Weekly News*, 1 April 1871, p. 15; *Bay of Plenty Times*, 19 May 1893, p. 5; *Auckland Star*, 20 January 1932, p. 9.

³³⁴ R.S. Bush to Native Minister, 24 April 1871, *AJHR*, 1871, F-6A, p. 13.

A Thames correspondent understood that Ngati Haua had decided that, 'having already lost so many men in warfare with the Europeans, it would be foolish to risk the few remaining' men by fighting Ngati Maru. 'Therefore all opposition to the latter tribe taking possession of the Aroha block would be withdrawn', and letters to this effect were sent to two Ngati Maru rangatira, who were expected to leave Thames shortly for Te Aroha 'with the bulk of their followers'.³³⁵

According to Taipari, when Fenton wrote to him and Karauna asking that they arrange for a survey, they forwarded the letter on to the inspector of surveys in Auckland,³³⁶ Theophilus Heale,³³⁷ who informed Ngati Maru that the court was in no hurry to survey the land. 'If the survey is completed within two years it will be all right', and the time could even be extended further. 'Do not therefore take surveyors out to the land while such a proceeding may cause trouble – it is better to wait quietly until there shall be no trouble'. If they took surveyors out and 'evil' ensued, they would be at fault.³³⁸ To ensure that the survey was delayed, Heale asked Mackay to use his 'great influence' to prevent it being made 'while the excitement lasts. I am informed that loss of life is likely to occur on the appearance of a surveyor'.³³⁹ Mackay read the first letter to a meeting of Marutuahu and intended to 'publish it among the other members of the tribe at the earliest opportunity', and assured Heale that Marutuahu did not want to hasten the survey and that he would use his influence to prevent conflict. He denied that this tribe would be at fault in any clash over the survey, and urged the government to restrain the opposing party to take 'forcible possession of Te Aroha, which I hear they intend to do'.³⁴⁰ Taipari later recalled that 'we were told by the Government to defer the survey'; McLean 'told us this

³³⁵ Thames Correspondent, *Auckland Weekly News*, 22 April 1871, p. 6.

³³⁶ Maori Land Court, Hauraki Minute Book no. 10, p. 407.

³³⁷ See *A Dictionary of New Zealand Biography: vol. 1: A-L*, ed. G.H. Scholefield (Wellington, 1940), pp. 371-372.

³³⁸ Theophilus Heale to Te Hoterene Taipari and others, 22 April 1871, Maori Affairs Department, MA 1, 13/85, ANZ-W; a different translation was printed in *New Zealand Herald*, 3 May 1871, p. 2.

³³⁹ Theophilus Heale to James Mackay, 22 April 1871, printed in *New Zealand Herald*, 3 May 1871, p. 2.

³⁴⁰ James Mackay to Theophilus Heale, 1 May 1871, printed in *New Zealand Herald*, 3 May 1871, p. 2.

himself, and that the Government would pay for the Survey, and that the natives could repay the Government afterwards'.³⁴¹

Because of the 'excitement and irritation' caused by the decision, in late April officials accompanied Ngati Maru onto the Aroha block 'at their request'. News that Ngati Haua accompanied by 'several sections of the Waikato – friendlies and Hauhaus' were intending 'to occupy the ground in force' prompted Ngati Maru 'at once to hasten to the spot, with the view of taking early possession'. A letter from McLean to Ngati Haua, Waikato, Ngati Maru and Ngati Paoa eased the tension 'and prevented a recourse to arms, which might in all probability have taken place had they met together on the ground'.³⁴² By now it was realized that although the Marutuahu tribes were meeting at Te Aroha to discuss 'all questions immediately connected with the Te Aroha blocks', the 'principal owners' were opposed to opening the land, although there was still hope that the government might 'get over this difficulty'.³⁴³

On 3 May a messenger arrived in Ohinemuri from those Ngati Maru at Te Aroha with news that 'the Ngatihaua and the Waikato had decided to throw up the game and have nothing to do with Te Aroha' and that those Ngati Maru who had gone there intended to plough it.³⁴⁴ 'The great body' of Ngati Paoa and Ngati Maru arrived at Te Aroha shortly afterwards,³⁴⁵ along with Mackay and other Pakeha.

There they found Te Karauna, Te Moananui, and a considerable party of the Ngatimaru and Ngatitamatera natives. These natives had been on the ground for some time, and had commenced ploughing and making other arrangements for a permanent settlement. Every man was armed with a gun, and the quantities of ammunition displayed astonished the Europeans who were present, and who had been under the impression that a strict Arms Act was in operation. In addition to the usual

³⁴¹ Maori Land Court, Hauraki Minute Book no. 10, p. 407.

³⁴² H.T. Kemp to Donald McLean, 27 May 1871, 'Further Reports from Officers in Native Districts', *AJHR*, 1871, F-6A, p. 12.

³⁴³ Thames Correspondent, *Daily Southern Cross*, 20 April 1871, p. 2.

³⁴⁴ Special Commissioner, 'The Opening of Ohinemuri', *New Zealand Herald*, 8 May 1871, p. 3.

³⁴⁵ Special Commissioner, 'The Opening of Ohinemuri', *New Zealand Herald*, 13 May 1871, p. 3.

ceremonials, a feu-de-joie³⁴⁶ was fired with a regularity to be envied by the Thames Volunteers. To this succeeded a “tangi” or “crying match,” after which speeches were delivered, the principal orations being by Te Moananui, and Mahi Te Hinaki, of Mercury Bay. The speeches were, we understand, in favour of opening the country. But while all was going favourably, two messengers, who had been sent over to the Waikato, returned, saying that a party of from 200 to 400 Kingites were coming over. What part they were to take in the proceedings was not known, but the statement that they were coming threw a complete damper upon the gathering. Previously to the arrival of the messengers strict military rule had been observed, sentries and out-lying picquets having been posted in the style of the German army round Paris. When the messengers came, however, every one seemed to recollect all at once that “urgent private affairs” called him to Ohinemuri, and when each found his neighbour was of the same way of thinking, it was very easy coming to a unanimous resolution to make a “strategic movement” down to Ohinemuri again. The army therefore retreated, carrying with them their guns and ammunition, but leaving to the advancing Waikatos all the fruits of their labour in ploughing, &c.³⁴⁷

They retreated as far as Hikutaia, where they stopped ‘to feast and to weep’.³⁴⁸ A reporter who had been present denied any ‘precipitate retreat’, commenting that he could not imagine Mackay running away ‘from the chance of a row’.³⁴⁹ The extent of their occupation of Wairakau, upstream from Te Aroha, and their cultivation of it was described by this reporter as consisting of two whare ‘of considerable extent apparently new, and as much ploughed land as a man and two horses could get over in a day’.³⁵⁰ A ‘well-informed correspondent’ told a Thames newspaper that Ngati Maru had retreated not ‘in fear of an incursion from Waikato’ but because Mackay asked them to talk to Te Hira about ending his interference with the mail service. Hearing that a Waikato party was at Te Aroha, ‘after some deliberation, the Ngatimaru and their allies resolved to return’ there; as

³⁴⁶ ‘Salute of guns fired on ceremonial occasions’: *The Concise Oxford Dictionary of Current English*, 5 ed. (Oxford, 1964), p. 448.

³⁴⁷ *Thames Advertiser*, n.d., reprinted in *Auckland Weekly News*, 20 May 1871, p. 7.

³⁴⁸ *Evening Mail* (Thames), n.d., reprinted in *Auckland Weekly News*, 27 May 1871, p. 7.

³⁴⁹ Special Commissioner, ‘The Opening of Ohinemuri’, *New Zealand Herald*, 16 May 1871, p. 3.

³⁵⁰ Special Commissioner, ‘The Ohinemuri Country’, *New Zealand Herald*, 20 May 1871, p. 5.

some of the 'young men' had gone to Thames to obtain food, the newspaper was not certain whether there would be a fight or a feast. 'Probably the meeting will become a feast'.³⁵¹ There was an unlikely rumour that McLean had divided the block between Ngati Maru and Ngati Haua, and a more likely one that the latter intended to occupy 'Wairakau upwards'.³⁵² Accordingly, Te Karauna led a party from the tangi at Hikutaia 'to see for themselves as to the truth or falseness of the report', and Mackay went to investigate. As a sign of their intentions, Ngati Maru and Ngati Tamatera collected 'seed potatoes and kumeras to plant this next season on their lands at the Aroha'.³⁵³ Early in June, it was reported that the opponents of the survey had 'succeeded in gaining their point: for the moment, at least, the survey will not be proceeded with'.³⁵⁴

In June, a meeting of all Ngati Haua, both Queenite and Kingite, was held at a Hauhau settlement at Maungatautari. The Hauhau urged the others to join them against the Pakeha, warning them 'that the house of Japhet (the Europeans) were a deceitful race; alluded to Te Aroha, and the way in which it had been taken from them', but the Queenites declined to combine with them to fight the government.³⁵⁵ Shortly afterwards it was reported that Ngati Haua had refused Tawhiao's request to prevent the survey or forbid the leasing of land. Ngati Maru were 'very much excited by this intelligence, and vow that in the event of its being confirmed they will proceed to Te Aroha, and occupy the land for permanent settlement, and defy the King and his Waikatos to do their worst'.³⁵⁶ Amongst the topics discussed at a large Kingite meeting at Patatere later that month was the possible survey.³⁵⁷ In September, at another large meeting, at Te Kuiti, Rewi Maniapoto was the first to speak about the land:

The Aroha is mine (repeated three times), not yours sitting there, but mine; I am alone the ruler of the Aroha – Te Raihi (Ngatihaua): You have your thoughts, I have mine.... Reihana Te Wahanui ... began by saying that he was the Tupana of the

³⁵¹ *Evening Mail* (Thames), n.d., reprinted in *Daily Southern Cross*, 20 May 1871, p. 5.

³⁵² *Auckland Weekly News*, 27 May 1871, pp. 7, 15.

³⁵³ *Thames Advertiser*, n.d., reprinted in *Auckland Weekly News*, 27 May 1871, p. 15.

³⁵⁴ *Auckland Weekly News*, 10 June 1871, p. 17.

³⁵⁵ W.N. Searancke to Donald McLean, 24 June 1871, *AJHR*, 1871, F-6A, p. 15.

³⁵⁶ Thames Correspondent, *Daily Southern Cross*, 4 July 1871, p. 3.

³⁵⁷ *Auckland Weekly News*, 22 July 1871, p. 15.

Aroha; he alone was the person to speak about it.... The Aroha land should not be sold: he would keep it for them.³⁵⁸

Because of this controversy, in January 1872 a correspondent referred to Te Raihi, who received a salary from the government as an assessor, as being 'of the Aroha land case notoriety'.³⁵⁹ In May, Pollen was asked to respond to letters from Waikato and Ngati Haua requesting a rehearing because 'the hearts of the people are still dark in these days about the Aroha'.³⁶⁰

Ngati Rahiri did have the survey made and the boundary laid off.³⁶¹ Te Raihi told the court in 1878 that he did not know who determined the boundary, but thought it was Mokena and another rangatira, with the backing of Ngati Rahiri and 'all the tribes included in Marutuahu'.³⁶²

CONFLICT OVER CATTLE RUNNING ON WAIHARAKEKE

Conflict resulting from the Aroha judgment was provoked in 1873 by the sons of Wiremu Tamihana, of Ngati Haua, granting permission to Henry Alley,³⁶³ who owned land at Hikutaia, to run 167 cattle on the Waiharakeke block. For 'some time' he had brought cattle from Hikutaia and Napier to graze there.³⁶⁴ On 20 May the *Thames Advertiser* was 'sorry to learn' that Alley was 'likely to have some difficulties with the natives at Te Aroha'. As he had insufficient land for the cattle he grazed for the Thames market, 'he sought for and supposed he had obtained' Waiharakeke from those 'who professed to be the owners', but 'the real owners' were Ngati Maru. Recently, he had placed a 'mob of cattle on the land, and had not anticipated any trouble', but after being informed a Ngati Maru runanga had 'resolved that the cattle must be driven off'; Alley would have 'to obey at

³⁵⁸ *Auckland Weekly News*, 30 September 1871, p. 12.

³⁵⁹ Hikutaia Correspondent, *Thames Guardian and Mining Record*, 17 January 1872, p. 3.

³⁶⁰ Hakiriwhi to Daniel Pollen, 6 May 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

³⁶¹ Maori Land Court, Hauraki Minute Book no. 10, p. 248.

³⁶² Maori Land Court, Hauraki Minute Book no. 10, p. 266.

³⁶³ See *Thames Star*, 21 August 1918, p. 2; he was not involved in Te Aroha mining.

³⁶⁴ *Thames Advertiser*, 27 May 1873, p. 3; Thames Correspondent, *Auckland Weekly News*, 24 April 1873, p. 8; 'Mr Alley's Charges Against Officers in Native Department (Report by Hon. Colonel Haultain Upon)', *AJHR*, 1876, H-14, p. 1.

his very earliest convenience' or would 'probably lose his cattle altogether'. The newspaper could not understand how Alley, 'who has some knowledge of the difficulties of dealing with natives in respect to land', should place cattle on land with uncertain ownership. 'However, we suppose there is no hope for it now. Maori laws are like the laws of the Medes and the Persians – but our laws! What are they like?'³⁶⁵ Two days later, it hoped that the cattle would be allowed to come to Thames and not be sent to Waikato, where Hauhau would seize them.³⁶⁶ On the following day, in reporting the departure of Ngati Maru to establish a settlement at Te Aroha, it wrote that the 'first duty' of those going there would be 'to assert their right to Waiharakeke by driving off Mr Alley's cattle'.³⁶⁷

A Thames correspondent wrote an alarming report about armed Maori being in the Hikutaia and Ohinemuri area and 'the arrival of messengers laden with letters of mighty import from the Waikato Kingites to those of Hauraki. It was positively asserted that one messenger had come, and that the burden of his song was war', a report met 'with general credence' at Thames. The only 'events of real significance' that had taken place was Alley's occupation of Waiharakeke, believed to be a part of the Aroha block that had not 'undergone the purifying process of the Native Lands Court'. Te Moananui and his followers 'profess to be indignant at the occupation' and some Ngati Maru rangatira had written to Puckey insisting that the cattle be removed at once. At a meeting of Maori in Puckey's office, Te Moananui was over-ruled by the majority when he wanted to prevent the cattle from Hikutaia returning over Ngati Maru land, but it was agreed that the cattle from Napier would either be returned to there or sent onto Ngati Haua land. The correspondent considered it 'suspicious that no notice was taken of this cattle trespass until now when a crisis in native affairs appears to be at hand'.³⁶⁸

After his meeting with Ngati Maru, Puckey wrote to Alley:

I have been requested by the Natives to desire you to take immediate steps to have the cattle removed, either to lands belonging to the Natives who have the cattle in charge, or else to Hikutaia, or wherever the cattle were driven from. I would recommend you to do this at once, as the Hau-Hau portion of the

³⁶⁵ *Thames Advertiser*, 20 May 1873, p. 3.

³⁶⁶ *Thames Advertiser*, 23 May 1873, p. 3.

³⁶⁷ *Thames Advertiser*, 24 May 1873, p. 3.

³⁶⁸ Thames Correspondent, *Auckland Weekly News*, 24 May 1873, p. 8.

people counsel the advisability of killing the cattle, but, in deference to the wishes of the people here, have for this time left the matter to be dealt with by them.

At the meeting, it was further decided that in case you failed to remove the cattle at once, the Natives would drive them back, and if they were taken on the land again they would be killed.

In addition, I would point out to you the desirability of abstaining from any act which might complicate our relations with the Natives; and as this question is one of importance to yourself more particularly, let me urge upon you to lose no time in removing the cattle. The Ohinemuri Natives have refused to allow them to pass through on their way back, but I will see to that myself, and will remove any difficulty on that point.³⁶⁹

A newspaper reported that, when on their way to Te Aroha, Ngati Maru met with Te Hira, Te Moananui, and Mere Kuru, and agreed not to send the cattle through Ohinemuri to Thames but either to Cambridge or Tauranga.³⁷⁰ In early June, Alley went to Waiharakeke 'to try and arrange with the native owners, or remove his cattle'.³⁷¹ When he arrived, as he told the *Thames Advertiser* later, he found they had been driven over the river to Wairakau, where Ngati Maru had established their settlement.

To Mr Alley's surprise, he found that Waitangi, whom he had sent over from Tauranga to take charge of the cattle, was one of those who were most anxious to have them off. The natives who were driving the cattle off were of the Ngatihinerangi and Ngatimaru, and on Tuesday morning a korero was held. The natives asserted that the Ngatihaua had little or no claim to the land, and asserted their own right. In the afternoon, two of the Ngatihauas came down and loudly declared against the cattle being taken, saying that if their tribe had been present when the others came to drive the cattle away, there would have been bloodshed. Mr Alley pointed out that the land would soon be before the Native Lands Court, then the title would be settled, and he would know whom to deal with. It was to no effect. Mr Alley then protested, and warned all concerned, including Te Karauna, of the Ngatimaru, that he would sue them for damages. He advised the Ngatihauas not to take any step at present, but to wait till the land went through the Court, and then bring a claim against Ngatimaru and Ngatihinerangi. To the threat of law, however, the natives paid little heed; they know too much to be easily

³⁶⁹ E.W. Puckey to Henry Alley, 19 May 1873, printed in 'Mr Alley's Charges', p. 8.

³⁷⁰ *Thames Advertiser*, 27 May 1873, p. 3.

³⁷¹ *Thames Advertiser*, 4 June 1873, p. 3.

frightened in that way. At this time about 30 cattle were still on the run and the Ngatihaua were for keeping them there by force, but Mr Alley advised them to have nothing to do with fighting. The Ngatihaua said that some of their tribe would come down and occupy Waiharakeke, and then Ngatimaru would have to drive off men if they could. Waitangi was hard pressed as to whether he had not taken money from Mr Alley, and at last he said that the Ngatihinerangi had received two telegrams from Mr D[onald] McLean, Native Minister, telling them to drive the cattle away. In this assertion, Waitangi surely trusted entirely to his imagination, or at all events misrepresented the contents of the Native Minister's telegram. Finding he could do nothing, Mr Alley came down here, leaving the cattle between Te Aroha and Ohinemuri. Mr John Davis is in charge of them, and it is thought there will be no difficulty in getting them straight through Ohinemuri. But the loss must be great. Mr Alley has no accommodation at Hikutaia, and there must be great deterioration in his cattle from being driven about the country.³⁷²

Davis, a 'half-caste', brought them safely to Hikutaia, despite the opposition of some Ohinemuri rangatira.³⁷³ Alley later claimed that Maori killed three bullocks, 'others were damaged or lost in the bush, and a good many died from eating tutu, as there was no other food'.³⁷⁴ The land court was later told that Ngati Rahiri had borne arms when driving the cattle off.³⁷⁵

One consequence of this event and subsequent confrontations between Maori landowners at Hikutaia with Alley was a series of complaints by the latter that he was ruined because of Maori action and government action or inaction.³⁷⁶ In his petition to parliament in 1874, he claimed the block had passed through the court 18 months before he began negotiating in 1872 with its owners, Ngati Haua and Ngaiterangi. A lease was granted to him, payment was made, and he took possession in April 1873, whereupon two native agents, Puckey in Thames and Hopkins Clarke³⁷⁷ in Tauranga, told him to remove his cattle, 'under threat of expulsion by the Natives'. Armed

³⁷² *Thames Advertiser*, 9 June 1873, p. 3; for his December 1875 version, see 'Mr Alley's Charges', p. 7.

³⁷³ *Thames Advertiser*, 14 June 1873, p. 2, 8 December 1873, p. 3.

³⁷⁴ Statement by Henry Alley, 7 December 1875, 'Mr Alley's Charges', p. 7.

³⁷⁵ Maori Land Court, Hauraki Minute Book no. 10, p. 253.

³⁷⁶ 'Mr Alley's Charges', pp. 1-2; *Thames Advertiser*, 23 March 1876, p. 3.

³⁷⁷ See *New Zealand Herald*, 19 March 1897, p. 3; *Auckland Star*, 15 December 1892, p. 9.

Maori had then driven them away, and he had never been able to use this land, suffering 'severe losses'. He claimed to have 'strong reason' to believe 'the driving off of cattle and the repudiation of engagements was instigated directly by the Government through their officers stationed in the district', and called for an investigation. As his cattle were later driven off Hikutaia, he applied for redress and to be reinstated in possession of both blocks.³⁷⁸

As parliamentarians recommended that these 'serious charges' should be investigated,³⁷⁹ Theodore Minet Haultain,³⁸⁰ Trust Commissioner under the Native Lands Fraud Prevention Act, reported in June 1876. After asking Alley to produce the names of witnesses without receiving a 'satisfactory answer',³⁸¹ he received a statement from him and interviewed Puckey and Karauna Hou in his presence. Alley was still unable to produce any witnesses apart from Davis, 'who had acted as his interpreter, and was then at Te Kuiti'. Davis did not provide any useful evidence,³⁸² and Alley failed to prove his charges, apart from making libellous claims about Donald McLean.³⁸³ In his statement Alley claimed to have been told by a Tauranga Maori that McLean had advised Maori to drive his cattle off, a charge McLean denied. 'Some Natives told me during the discussion at Wairakau, where the cattle had been driven, that they would not have interfered with the cattle only that a runanga of Europeans and Natives had agreed that the cattle should be driven off'; Alley believed Puckey had participated in that runanga. In 'general conversations' with Maori who wished him to return to the land 'they have led me to suppose that the officers of the Native Department were opposed to it'.³⁸⁴ Puckey denied advising or instigating Ngati Maru to drive off the cattle; his warning was 'to prevent injury being done to them'.³⁸⁵ Karauna stated that he took part in driving the cattle off because the land was his and Ngati Haua had no

³⁷⁸ 'Mr Alley's Charges', p. 1.

³⁷⁹ 'Mr Alley's Charges', p. 2.

³⁸⁰ See *Cyclopedia of New Zealand*, vol. 1, p. 70; vol. 2, p. 431.

³⁸¹ For copies of correspondence between Haultain and Alley, see 'Mr Alley's Charges', pp. 3-7.

³⁸² See J.C. Davis to T.M. Haultain, 16 December 1875, printed in 'Mr Alley's Charges', p. 5.

³⁸³ See T.M. Haultain to Henry Alley, 29 December 1875, printed in 'Mr Alley's Charges', p. 6.

³⁸⁴ Statement by Henry Alley, 7 December 1875, printed in 'Mr Alley's Charges', p. 7.

³⁸⁵ Statement by E.W. Puckey, 7 December 1875, printed in 'Mr Alley's Charges', pp. 7-8.

claim to it; he had not been advised to act by any Pakeha. He had been told by a member of Ngati Hinerangi that McLean had sent a telegram telling that tribe to drive the cattle off; 'We should not have allowed the cattle to remain, even if Sir D. McLean had asked us to do so'.³⁸⁶

Because of this evidence, Haultain was 'satisfied' that Alley's charge that officials had 'instigated the Natives to repudiate their engagements with him, and to drive off his cattle', were 'entirely without foundation. No one at all acquainted with Maori feeling and custom, would suppose that the opponents to the lease required any prompting to induce them to act in the manner they did', and he cited Karauna's statement to that effect. Despite Alley's claim that the block had gone through the court, it had not.³⁸⁷ It was claimed by both Ngati Maru and Ngati Haua, who were

strongly at variance on certain land questions, and no agreement made by one party would be recognised by the other. Mr Alley made an agreement (invalid) to lease the land from certain of the Natives, and placed his cattle there. The other claimants immediately threatened to drive the cattle away, and informed Messrs Puckey and Clarke of their intention, requesting them to desire Mr Alley to remove the cattle from the disputed block. These officers recommended him to do so at once, knowing that the opposing Natives would never allow him quietly to take advantage of the agreement he had made.

Mr Alley did not follow their advice and his cattle were driven to Hikutaia.³⁸⁸

HOPES OF OPENING THE AROHA BLOCK TO SETTLEMENT

In September 1867, a Thames correspondent had

heard it said among several natives who are connected with those residing in the neighbourhood of the Aroha mountain ... that they would not object to opening their land provided there was a guarantee from head-quarters that they would not be interfered with, and that their cultivations would be protected.³⁸⁹

³⁸⁶ Statement by Te Karauna Hou, 7 December 1875, printed in 'Mr Alley's Charges', p. 8.

³⁸⁷ Confirmed by Maori Land Court, Waikato Minute Book no. 2.

³⁸⁸ 'Mr Alley's Charges', pp. 2-3; also printed in *Thames Advertiser*, 1 July 1876, p. 3.

³⁸⁹ Thames Correspondent, *Auckland Weekly News*, 28 September 1867, p. 7.

(‘Head-quarters’ meant the government.) Maori owning land between the Thames goldfield and the Aroha mountain reportedly were ‘busily engaged in removing the remains of their dead to a more distant locality. This has but one meaning, namely, that they intend entering upon arrangements with the Government to have that district open to the miners’. Even ‘beyond the Aroha mountain’ Maori were ready to open their land.³⁹⁰ In October the following year, it was stated at a korero in Ohinemuri that Maori living on the Aroha block were ‘willing to receive Europeans’ and to open their land to prospectors.³⁹¹ Also in that month, the government was warned by the Waikato magistrate that if goldfields at Ohinemuri and Te Aroha were ‘thrown open to Europeans by the friendly Natives residing there, that serious disturbances, if not war’, would result, for this would be seen as a cause for war by Tawhiao and his supporters and it was ‘impossible’ that ‘any disturbance’ could be confined to Hauraki.³⁹²

As Mackay later explained, when he was in Waikato

some of the Ngatihaua chiefs signed a preliminary agreement on the 9th January 1869, to permit mining for gold on their lands at Te Aroha Mountain, and I paid them a deposit on account of miners’ rights fees to bind the bargain. At this time a case was pending in the Native Land Court between the Ngatihaua and Ngatimarua about this land; and although not anticipating that the decision would be altogether in favour of the former, it was supposed they would be found entitled to a certain interest in it, and as private persons were about to negotiate for the land, it was deemed expedient to attempt to secure it for the public.³⁹³

Clearly Ngati Haua were anxious to obtain some money before their claim was before the court, probably fearing that it would fail. Despite Mackay describing and sketching the boundaries of the land ceded, later surveyors discovered that they were ‘not definite enough to locate accurately’.³⁹⁴

³⁹⁰ Editorial, *New Zealand Herald*, 18 September 1867, p. 3.

³⁹¹ *Auckland Weekly News*, 10 October 1868, pp. 6-7.

³⁹² W.N. Searancke to J.C. Richmond, 10 October 1868, ‘Reports from Officers in Native Districts’, *AJHR*, 1869, A-10, p. 8.

³⁹³ ‘Report by Mr Commissioner Mackay Relative to the Thames Gold Fields’, 27 July 1869, *AJHR*, 1869, A-17, p. 10.

³⁹⁴ Chief Surveyor, District Office, Auckland to Under-Secretary, Lands and Survey Department, 12 April 1922, Mines Department, MD 1, 6/4/4, ANZ-W.

In March 1869, an Auckland newspaper regretted that ‘the disturbed state of Waikato’ would ‘indefinitely delay’ the completion of the cases before the court. ‘It was confidently expected that the passing of the lands of Te Aroha through the Court would materially hasten the opening of the Upper Thames, but we fear that this cannot be done while the Waikato is in its present state’.³⁹⁵ The following month, it believed that Ngati Haua were ‘eager enough’ to open the land, as they had promised Mackay, ‘but perhaps in the circumstances of the case, and of the whole country, the Government may deem it judicious not to proceed any further for a short time’.³⁹⁶ In mid-year, Tawhiao was in contact with Hauraki Maori, trying to prevent Te Aroha being opened for mining.³⁹⁷

In May 1870, when a korero was held over whether Keepa Te Wharau owned a portion of the block which he had offered to sell to a Pakeha speculator, ‘it was decided against him’.³⁹⁸ A month later, rumours that Gillies, earlier the counsel for Ngati Haua and now Superintendent of the Auckland Province, was negotiating with this tribe to purchase the block were greeted ‘with satisfaction’ by Pakeha. The *Thames Advertiser* recommended that Gillies ‘should get both parties to agree, as a purchase from the Ngatihauas, without recognizing any claims of Ngatimaru, would raise great opposition, and would add to the strength of the closing party at Ohinemuri’. Should the block ‘prove auriferous, it would be quite impossible to keep Ohinemuri closed’, and even if not auriferous, it would ‘still be of immense value for settlement’.³⁹⁹ An Ohinemuri settler heard that Ngati Haua had been told by Tawhiao to leave the district and settle at Maungatautari. ‘I have been told that they are going to leave the Aroha because they are unjustly blamed for leasing or selling that part of the country to the Government’. He was also told they were willing to lease it to the provincial government for mining.⁴⁰⁰ Nothing came of these rumours.

According to an editorial in the *Thames Advertiser* in October, the ‘importance’ of opening of Ohinemuri and Te Aroha could ‘hardly be over

³⁹⁵ *Auckland Weekly News*, 6 March 1869, p. 11.

³⁹⁶ *Auckland Weekly News*, 10 April 1869, p. 18.

³⁹⁷ *Auckland Weekly News*, 29 May 1869, p. 11.

³⁹⁸ E.W. Puckey to H.T. Clarke, 3 May 1870, Donald McLean Papers, MS-Copy-Micro-0535-082, Alexander Turnbull Library.

³⁹⁹ *Thames Advertiser*, n.d., reprinted in *Auckland Weekly News*, 4 June 1870, p. 5.

⁴⁰⁰ J.W. Thorpe to Donald McLean, 14 June 1870, Donald McLean Papers, MS-Copy-Micro-0535-094, Alexander Turnbull Library.

estimated'. Unless the government wanted 'to adjourn all question of the opening of the country to an indefinite future time' because of the opposition, now was 'the opportunity to consider if some course cannot be taken by which the very few men who are keeping an immense country closed cannot be made to give way'.⁴⁰¹ It provided no 'course' for the government to consider.

After Marutuahu's victory in the court, in early April 1871 meetings were held in Ohinemuri and Thames about determining boundaries and other issues. As 'all the owners seem inclined to open the block to gold-miners', a large meeting had been arranged to consider future actions.

There is unquestionably a very strong disposition on the part of many of the natives to sell out their interests altogether upon allotment, while other chiefs have expressed their willingness to lease land in the neighbourhood of Te Aroha to Europeans, and to protect them in the possession of it. Some chiefs have proposed to make good all purchases of land on the block formerly made by Europeans.⁴⁰²

However, two weeks later a Thames correspondent wrote that whether Ngati Maru would open the land after taking possession 'remains to be seen'.⁴⁰³ Another reporter stated that the Marutuahu tribes were 'not altogether in favour of opening the lands', which 'the principal owners' opposed. 'The Government may, however, get over this difficulty'.⁴⁰⁴ It was understood that Mackay would make an attempt to open the block, but he and other officials were unable to convince Te Moananui and others to do this; Te Moananui said he would abide by the decision of Te Hira.⁴⁰⁵ It was agreed that Te Hira's agreement was required.⁴⁰⁶

A reporter who attended a meeting of Marutuahu at Te Aroha in May understood that the speeches were 'in favour of opening the country', but the anticipated arrival of Ngati Haua warriors ended discussions

⁴⁰¹ Editorial, *Thames Advertiser*, 10 October 1870, p. 2.

⁴⁰² *Auckland Weekly News*, 8 April 1871, p. 5.

⁴⁰³ Thames Correspondent, *Auckland Weekly News*, 22 April 1871, p. 6.

⁴⁰⁴ *Auckland Weekly News*, 22 April 1871, p. 10.

⁴⁰⁵ *Auckland Weekly News*, 29 April 1871, p. 6, 13 May 1871, p. 18.

⁴⁰⁶ Special Commissioner, 'The Great Meeting of Natives at the Piako', *New Zealand Herald*, 1 May 1871, p. 2.

abruptly.⁴⁰⁷ In late May, Puckey enthusiastically informed McLean that 'I have obtained the cession to the Govt for Gold mining purposes of a large portion of the Aroha – including the peaks of the mountain – I think no time should be lost in proclaiming this as a gold field as soon as everything is ready for occupation by us'. Only Taipari and three others had signed this secret agreement, and as they refused to meet with Mackay, Puckey had 'not reported the matter officially as I am afraid of Mr Mackay hearing of it'. The block ceded contained about five or six square miles, and he argued that obtaining it would prevent Te Hira communicating with the King Country.⁴⁰⁸ McLean did not share his enthusiasm, being concerned that legal conflict or even fighting might ensue; he wanted all the owners to agree.⁴⁰⁹ Puckey repeated that the signatories, who owned the portion being ceded, would not deal with Mackay, or even the provincial government, and thought most Ngati Maru would approve but some rangatira would not.⁴¹⁰ After meeting with Taipari, Pollen, and Hopkins Clarke, Puckey reported that they had decided 'to keep the matter in abeyance until the Waikato are easier in their minds'. He claimed Taipari had 'nearly the whole of Ngatimaru with him in this matter'. Puckey had sent a 'trust worthy' Maori to Te Aroha 'to sound the Hauhau portion of Ngati Maru' living there about their 'feelings' over surveying the land;⁴¹¹ the lack of a subsequent letter indicated their 'feelings'.

In a letter published in 1880, a prospector, John Dixon,⁴¹² said he told John Williamson, the Superintendent, 'about two years and a half after the opening of Ohinemuri' that he had discovered gold at Te Aroha in 1871 'by consent of native owners'. (As Williamson died in February 1875, he had mistaken the date of the conversation.) Dixon showed one of these owners where he had found loose gold 'and asked him to allow the district to be opened. He said he would, but thought it would not do to say anything to

⁴⁰⁷ *Thames Advertiser*, n.d., reprinted in *Auckland Weekly News*, 20 May 1871, p. 7.

⁴⁰⁸ E.W. Puckey to Donald McLean, 29 May 1871, Donald McLean Papers, MS-Copy-Micro-0535-062, Alexander Turnbull Library.

⁴⁰⁹ Donald McLean to E.W. Puckey, 6 June 1871, Donald McLean Papers, MS-Copy-Micro-0535-062, Alexander Turnbull Library.

⁴¹⁰ E.W. Puckey to Donald McLean, 7 June 1871, 10 June 1871, Donald McLean Papers, MS-Copy-Micro-0535-062, Alexander Turnbull Library.

⁴¹¹ E.W. Puckey to Donald McLean, 14 July 1871, Donald McLean Papers, MS-Copy-Micro-0535-062, Alexander Turnbull Library.

⁴¹² See paper on rumours of gold at Te Aroha.

the other owners, as the tribal rights were not then settled'. For his part, Williamson 'immediately asked me, as a favour, not to say anything about it for a time, as things were not settled with the natives, and it would hinder negotiations'.⁴¹³

In September, Taipari told McLean that he and others, unspecified, wanted to hand over their portion to the government 'so that it may be thrown open to the Europeans for gold digging – We have written to the Native Land Court to investigate our claim, that is to divide between us'. They were advised that, as the land had been awarded to Marutuahu, it could be divided between hapu and individuals 'so that persons desirous to hand over their portions can do so, and persons wishing to retain theirs can also do as they wish'.⁴¹⁴ As the Waitangi Tribunal noted, unlike in Ohinemuri 'in this instance the Government was unwilling to enter into negotiations while Marutuahu tribal interests were undivided, since Taipari did not have authority to deal with the land autonomously'.⁴¹⁵

In December, a member of the Provincial Council, Charles Featherstone Mitchell,⁴¹⁶ moved that £10,000 be included in the estimates for 1872 to compensate owners of land in Ohinemuri and Te Aroha who would 'consent to open their lands for goldfields' and general settlement purposes'. He argued that this land 'was a key to the whole country, and would be a means of crushing forever the native difficulty. He further added that the natives were anxious to open up the district but not to the Government', and that when this auriferous land was opened 'there would be such a rush to it as had seldom or never been seen'. Mackay asked for the motion to be withdrawn because it would have the 'very opposite effect' to that intended. The owners, who were not after money, 'were in a sullen mood' but 'were not open enemies'. They simply sat on their land, saying: 'This is our land; we do not want you; let us alone'. Time was needed before their attitude changed. 'They should not be shown that we are anxious to

⁴¹³ Letter from John Dixon, *Thames Advertiser*, 19 November 1880, p. 3.

⁴¹⁴ W.H. Taipari to Donald McLean, 6 September 1871, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴¹⁵ Waitangi Tribunal, *The Hauraki Report* (Wellington, 2006), vol. 2, p. 466.

⁴¹⁶ See paper on the Thames Miners Union.

obtain possession of the land. Let this alone, and they will soon come round'. The motion was withdrawn.⁴¹⁷

SURVEYING COMMENCES

In early 1872, impatience was felt at Thames about opening Te Aroha for mining because of the anticipated 'splendid prospects'.⁴¹⁸ In March, a meeting was held at Ohinemuri with Superintendent Gillies, without Ngati Maru, who had left after Taraia's tangi:

TARAPIPIPI wanted to know what was going to be done in the matter of surveying Te Aroha Block.

Mr MACKAY said that if the survey were made he would wish all the tribes interested to be present at the survey. He was sorry that the Ngatimaru had gone away so soon. They might have discussed the subject whilst all were gathered together.

HIS HONOR the Superintendent said that the Government had nothing to do with the survey. The Native Land Court had adjudicated the subject to certain conditions. He would merely remark that it was great folly to dispute about the simple survey. The act of cutting the lines would not remove the hills.

As the reporter considered the subsequent discussion about hapu interests was 'not of great interest', he did not record it. He believed Pakeha influence in the district exceeded that of Tawhiao, which was promising.⁴¹⁹ Reputedly repeated visits by Pakeha were 'tending to familiarize the natives with the fact that they are making a mistake in not opening up the country'.⁴²⁰ The following month, Puckey hoped that McLean's visit to Auckland would resolve the issue. Taipari claimed that all Ngati Maru wanted this to happen and were willing to lease the land for mining, many being ready to sell their interests.⁴²¹ In September, a large meeting held at Tawhiao's settlement decided that the land over which he 'must have

⁴¹⁷ *Thames Guardian and Mining Record*, 12 December 1871, p. 3; Provincial Council, *Auckland Weekly News*, 16 December 1871, p. 8; for a somewhat different report, see Provincial Council, *New Zealand Herald*, 11 December 1871, p. 3.

⁴¹⁸ *Thames Guardian and Mining Record*, 23 February 1872, p. 3.

⁴¹⁹ *Thames Guardian and Mining Record*, 28 March 1872, p. 3.

⁴²⁰ *Thames Guardian and Mining Record*, 2 April 1872, p. 2.

⁴²¹ E.W. Puckey to Donald McLean, 4 April 1872, Donald McLean Papers, MS-Copy-Micro-0535-094, Alexander Turnbull Library.

influence, or *mana*, over the Natives (he wanted no land back)' included Te Aroha, meaning no roads, surveys, or telegraph lines would be allowed there. Two 'friendlies', Te Wheoro and Hone Te One, responded that Te Aroha should be neutral ground.⁴²²

At the end of October nine Ngati Maru rangatira, including Karauna Hou, Mokena Hou and his son Ranapia, and Taipari, asked McLean to send a government surveyor to survey the block, 'as we suffer greatly on account of the surveyors here, who ask for money to be paid so soon'. If McLean paid the surveyor they would repay him. 'We would like a surveyor who would charge little', and assured him that 'the whole of the Marutuahu people have agreed to the survey'. The border with the Katikati block should be paid for the government, and the survey should be completed before the following March.⁴²³ Puckey explained to McLean that this letter was written after he recommended that they leave the surveying to the government. Maori would cut lines for the surveyor and pay 'an equivalent' for his salary. If it was inappropriate to survey because of Ngati Haua and Waikato opposition, they would wait.⁴²⁴ Shortly afterwards, Ngati Maru met to decide about a survey,⁴²⁵ but no outcome was reported.

As the government did consider it was the wrong time, Marutuahu requested an extension of the two years specified for making the survey and McLean granted another year.⁴²⁶ That the technicality of not making the survey within the required two years was still an issue in 1874 was revealed by Puckey's comment to McLean that 'a great wrong will have been inflicted' on Ngati Maru if the survey was disallowed on that ground;⁴²⁷ it was not disallowed.

⁴²² B.J.F. Edwards to Lieut-Col. Lyon, 26 September 1872, *AJHR*, 1872, F-3A, pp. 16-17.

⁴²³ Karauna Hou, Mokena Hou, Ranapia Mokena, Aperahama Te Reiroa, W.H. Taipari, Nikorima Poutotara, Hori More, Reha Te Ikawhakaotinga, Ngakuru to Donald McLean, 30 October 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴²⁴ E.W. Puckey to Donald McLean, 31 October 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴²⁵ *Auckland Weekly News*, 2 November 1872, p. 9.

⁴²⁶ Under-Secretary, Native Office, to E.W. Puckey, 13 January 1873; Karauna Hou, W.H. Taipari, 'and the whole of Marutuahu' to Native Land Court, 24 March 1873, Maori Affairs Department, MA 1, 13/85, ANZ-W; *Thames Advertiser*, 27 October 1873, p. 2.

⁴²⁷ E.W. Puckey to Donald McLean, 31 March 1874, Maori Affairs Department, MA 1, 13/85, ANZ-W.

Although Mackay stated in March 1873 that the survey had been ‘arranged for’, Kingites still threatened to ‘fight’.⁴²⁸ In May, Pollen was told that Tarapipipi had discussed the survey with Waikato, and it would ‘not be allowed, as Tarapipipi has joined to prevent the survey’.⁴²⁹ Because surveyors had ‘never dared to go onto the ground’, a Thames newspaper explained, for the benefit of new arrivals, one of ‘the many curious customs’ of Maori:

If two sections of natives claim a block of ground, and the Native Lands Court, after a long investigation, adjudged to one of these, and the victorious section sells to a European, the correct thing for the losers to do is, not to say or do anything against their native opponents, but to kill the innocent European. One should think that they would expend their rage against those who had wronged them, but it is not so. And yet another peculiarity is, that those who had sold to the European would think that the Maoris had done quite right in so taking “utu.” This is a specimen of native logic.⁴³⁰

Late in May, about 30 or 40 Ngati Maru left Thames for Te Aroha, the *Thames Advertiser* assuming that they had ‘determined to keep their interests alive by forming a settlement’. Some of those ‘deputed to take possession’ left in whale boats ‘heavily laden with all kinds of stores – except warlike stores, which, if there, were not visible’.⁴³¹ Karauna later explained that they had gone ‘to give effect to the judgment of the Court. Went to turn off Ngatihaua, but they were not there. Some stopped, after the main party returned, to clear and plough, and to breed pigs’.⁴³²

Over the next two months the survey was made ‘against the wishes of a section of the native claimants’.⁴³³ In August, an Ohinemuri correspondent, Henry Dunbar Johnson, reported that Oliver Creagh had almost completed the survey without being stopped:

⁴²⁸ James Mackay, ‘Blocks under negotiation, but price not finally arranged’, 24 March 1873, *AJHR*, 1873, G-8, p. 13; *Thames Advertiser*, 2 April 1873, p. 3.

⁴²⁹ Hakiriwhi to Daniel Pollen, 6 May 1872, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴³⁰ Editorial, *Thames Advertiser*, 9 May 1873, p. 2.

⁴³¹ *Thames Advertiser*, 24 May 1873, p. 3.

⁴³² *Thames Advertiser*, 12 July 1878, p. 3.

⁴³³ *Thames Advertiser*, 4 August 1873, p. 3.

Tutuki, the Hauhau Ngatimaru, with some of his people, were searching for two weeks, but unsuccessfully, to find the surveyors. He said he did not much object to the main survey of the whole block; what he objected to was the sub-division of the block, for then the land would float out to sea, or in other words, be sold to the pakeha, which he did not wish to see while he lived.

Some Hauhau threatened to kill 'any European or Maori surveying', but when an Ohinemuri Maori suggested that 'a large number' should 'bring in' the surveyors, Te Hira said: 'Don't let us interfere with the pakehas, let the Ngatimaru go and stop the survey'. Mackay had telegraphed Creagh from Waikato 'to remove his men and stop the survey', for Ngati Haua were 'arming and coming down immediately to molest the surveyors', but Tutuki did not expect them to come and none were seen, although 'some fires were seen on the survey line near Waitoa'. Johnson hoped that the government would now purchase 'nearly the whole' area and open it for settlement and mining.⁴³⁴

In August, a korero was held in Ohinemuri 'to condemn the conduct of the surveyors' in ignoring those opposed to the survey.⁴³⁵ Reportedly, 'they did not object to the block being sold', an unlikely interpretation, but considered 'it was wrong to survey it in the dark'.⁴³⁶ At the end of September, Ranapia Mokena brought Puckey 'intelligence of a somewhat alarming character':

He states that the whole of the Ngatimaru have been ordered to quit the Aroha by a Hauhau chief named Tutuki, one of the emissaries of the King, who had also sent a messenger to the King for assistance to drive off all the surveyors and friendly natives, so as to prevent them from having anything to do with Te Aroha. This Tutuki is a chief of the Ngatimaru tribe, and has therefore a claim to the Aroha block, but having cast in his lot with the King he has lost influence with his own people. They endeavored to persuade him from interfering, but he declined to remain quiet, and dispatched a messenger to the King for assistance.

Ranapia feared that 'trouble might arise'. The *Thames Advertiser* commented that Kingites were 'getting very uneasy' because Ngati Maru

⁴³⁴ Ohinemuri Correspondent, *Thames Advertiser*, 8 August 1873, p. 3.

⁴³⁵ *Thames Advertiser*, 4 August 1873, p. 3.

⁴³⁶ *Thames Advertiser*, 14 August 1873, p. 3.

‘openly declared their purpose’ to open the land for mining immediately the surveys were completed. Should that happen, as the strength of their position in Ohinemuri ‘would be very materially lessened’ it was ‘only natural to expect that they will strenuously oppose the opening’. Tutuki, who had been living at Te Aroha for ‘several years’, objected to other owners arranging the survey, and had written ‘to the extreme Hauhau party requesting them to collect their forces and come down to Te Aroha to kill any Europeans who may there be found surveying, or any of the resident natives who are assisting or are desirous of having the survey completed’. Ngati Maru rangatira ‘interested in Te Aroha’, when told by a ‘special messenger’ of Tutuki’s actions, immediately sent telegrams to the authorities in Waikato and Tauranga asking them to stop ‘any disaffected natives from passing through these districts’. Should the Kingites accede to Tutuki’s request, it was claimed Ngati Maru would ‘make a virtue of necessity’ and, with the government’s sanction, permit miners to prospect, thereby obtaining their assistance to repel any invasion of their territory. Ngati Maru disapproved of Tutuki ‘appealing to the extreme Hauhaus of Waikato, instead of inviting the Hauraki people to quietly discuss the subject, he being closely related to them’.⁴³⁷ Johnson commented that, while Tutuki was only ‘very slightly interested’ in the land, he was ‘a very large talker’. Despite being a Hauhau, he had

tacitly acquiesced throughout the survey of the block, leading, however, his own tribe to believe he was dead against it, but by some means his people find the gentleman out in his double dealing, then there’s a challenge and a row, and Mr Tutuki, to exonerate himself, swaggers and threatens to bring all the Hauhaus down to kill all the white people.

All Ohinemuri Maori were laughing at him.⁴³⁸

Johnson also reported that, by late September, Creagh was ‘progressing very favourably’ with the survey. Mokena had been ‘of great assistance’, pointing out the boundaries and getting the upriver tribes to indicate their boundaries.⁴³⁹ When the survey was completed in late October ‘the astonishing fact’ was revealed that the block contained 67,000

⁴³⁷ *Thames Advertiser*, 29 September 1873, p. 2.

⁴³⁸ Ohinemuri Correspondent, *Thames Advertiser*, 30 September 1873, p. 3.

⁴³⁹ Ohinemuri Correspondent, *Thames Advertiser*, 29 September 1873, p. 3.

acres, not the 130,000 previously calculated.⁴⁴⁰ The ‘tribal sub-divisions’ were completed over the next month, and Johnson considered Creagh deserved ‘credit for finishing the work so expeditiously, considering the obstacles he had to contend with, in the form of cantankerous Maories’.⁴⁴¹ In the following year Fenton informed Taipari that the survey had revealed that the block contained ‘a good deal more than what was investigated by the Court and adjudged to Marutuahu’.⁴⁴² The cost of the survey, £1,450, was met by the government.⁴⁴³

In November, the leading Kingites of Ohinemuri warned McLean (and the Governor) that the Aroha block was ‘a part of Ohinemuri’ and must not be taken out of their hands ‘lest my affection be withdrawn from you and yours from me, lest a root of bitterness spring up out of our mutual love’. The survey was a ‘stolen one’ because it was ‘not consented to by the whole tribe, but by one Maori and one whiteman – they perpetrated the theft’, having no right to give consent.⁴⁴⁴ The ‘whiteman’ must have been Mackay; the Maori was presumably Mokena; five years later, the land court was told that Ngati Rahiri had had the boundary with Ngati Haua laid off and were responsible for the survey.⁴⁴⁵ As Mokena told this court, ‘It was I who took the Surveyor and had the boundaries of Te Aroha laid off as now shown on the Map – Mr Creagh was the Surveyor. No one took part with me in laying off the boundary’.⁴⁴⁶ Te Hira, one of the signatories of the letter to McLean, ‘no doubt viewed the aukati then in place against miners in Ohinemuri as applying also to Te Aroha’, in the opinion of the Waitangi Tribunal. ‘Even after he had reluctantly withdrawn his opposition to a mining agreement over Ohinemuri in 1875, Te Hira regarded the southern boundary of the

⁴⁴⁰ *Thames Advertiser*, 27 October 1873, p. 2.

⁴⁴¹ Ohinemuri Correspondent, *Thames Advertiser*, 1 December 1873, p. 3.

⁴⁴² F.D. Fenton to W.H. Taipari, 24 March 1874, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁴³ E.W. Puckey to Daniel Pollen, n.d. [1874], Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁴⁴ Tanumeha Te Moananui, Te Hira Te Tuirā, Te Wharewhenua to the Governor of New Zealand and Donald McLean, 29 November 1873, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁴⁵ Maori Land Court, Hauraki Minute Book no. 10, p. 248.

⁴⁴⁶ Maori Land Court, Hauraki Minute Book no. 10, p. 425.

Ohinemuri field as a new aukati, beyond which Pakeha settlement was debarred'.⁴⁴⁷

THE FIRST ATTEMPTS TO PURCHASE THE AROHA BLOCK

In January 1872, Mackay reported on his initial steps to purchase the block, which had 'a larger area of land fit for settlement' than Ohinemuri; he believed 'some part of it can be acquired easier than the Ohinemuri country'. Already the government had bought 'some land on the Waitoa stream, adjoining the western boundary'.⁴⁴⁸ Establishing reserves for 'residence, occupation, and cultivation' required 'serious attention', and 'in most instances' should be made inalienable.⁴⁴⁹ In March the following year he reported that the block could 'only be purchased in the same manner as Ohinemuri, from hapus and individuals. Probable cost, two shillings per acre. Some excellent land on this block. Am personally acquainted with the fact of some portion being auriferous'. He had already advanced £285 from his private funds to those willing to sell.⁴⁵⁰ In early April, Te Raihi asked McLean to give him £100 to build a house.⁴⁵¹ Despite his under-secretary reporting there were no funds available, McLean decided that, as Te Raihi was 'a large claimant to Te Aroha' and 'the principal Chief of the Ngatihaua and a well disposed man the sum may be granted' and charged to the purchase of this land.⁴⁵² Before this decision was made, Te Raihi and other rangatira of Ngati Haua offered to sell the block for £10,000.⁴⁵³ Meha Te Moananui urged McLean not to pay Waikato and asked him to visit

⁴⁴⁷ Waitangi Tribunal, *The Hauraki Claim*, vol. 2, p. 466.

⁴⁴⁸ James Mackay to Minister for Public Works, 24 January 1872, *AJHR*, 1873, G-8, p. 4.

⁴⁴⁹ James Mackay to Minister for Public Works, 24 January 1872, *AJHR*, 1873, G-8, p. 5.

⁴⁵⁰ James Mackay, 'Blocks under negotiation, but price not finally arranged', 24 March 1873, *AJHR*, 1873, G-8, p. 13.

⁴⁵¹ Te Raihi to Donald McLean, 7 April 1873, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁵² Memorandum of Under-Secretary, Native Office, 21 April 1873; memorandum of Donald McLean, 23 April 1873; James Mackay to Under-Secretary, Public Works Department, 11 September 1873, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁵³ Hori Kukutai, Te Raihi, Hakiriwhi Pureroa, Hetaraka Nero, Nine P. Kukutai, Hamiora Te Aharoa, Ruke Taurua to Donald McLean, 16 April 1873, Maori Affairs Department, MA 1, 13/85, ANZ-W.

Ohinemuri to discuss this and 'other doings of the Pakehas', but warned he would not be snared by government money.⁴⁵⁴ McLean agreed to visit.⁴⁵⁵

In early September, Johnson reported a rumour amongst Maori that the government had completed the purchase. 'I hear that one section of natives considered that the others were trying to sit on them, and therefore they asserted their rights by disposing of their interests in the block. I sincerely hope that such may have been the case'.⁴⁵⁶ A month later he reported another rumour that it was 'certain to be opened very soon'.⁴⁵⁷ Late in October, the *Thames Advertiser* reported 'hopes that the land will now soon pass into the hands of Europeans', but predictions about its being opened had 'so often proved mistaken that we are afraid to say much on the subject'. As Ngati Maru were 'willing to sell, there ought to be no further difficulty'.⁴⁵⁸ A few days later, it wrote that 'the native hold upon Te Aroha is gradually loosening, and we think that this summer may see the block completely in the hands of the Government'.⁴⁵⁹ In mid-November, it called for government action because Ngati Maru wanted to sell and Ngati Haua, 'whose protests have been the means of keeping the district closed, can be settled by a payment, or by a piece of land'.⁴⁶⁰

Johnson reported that the 'Aroha survey question' was brought up at a korero at Paeroa in December. When shown the plan, each owner was 'very forward in pointing out to Mr Mackay his particular portion, and none seemed to be put out. I believe they would show greater anxiety to receive their portions of the money if it was sold'.⁴⁶¹ Two months later, he asked when the 'hermetically sealed' block would be opened, for it was rumoured that 'titles to certain blocks of land in the Aroha district' had been determined at the last sitting of the court in Waikato. As their sale

⁴⁵⁴ Meha Te Moananui to Donald McLean, 10 April 1873, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁵⁵ Memorandum of Donald McLean, 2-3 May 1873, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁵⁶ Ohinemuri Correspondent, *Thames Advertiser*, 8 September 1873, p. 3.

⁴⁵⁷ Ohinemuri Correspondent, *Thames Advertiser*, 13 October 1873, p. 3.

⁴⁵⁸ *Thames Advertiser*, 27 October 1873, p. 2.

⁴⁵⁹ *Thames Advertiser*, 1 November 1873, p. 3.

⁴⁶⁰ *Thames Advertiser*, 13 November 1873, p. 3.

⁴⁶¹ Ohinemuri Correspondent, *Thames Advertiser*, 11 December 1873, p. 3.

to certain parties high in authority had been previously negotiated ... no objections were made “for political reasons.” If such was the case, how long would it take to lay down the said blocks in grass and to stock them with sheep and cattle, ready for sale to the “noble diggers”? When the Book of the Upper Thames Chronicles is opened, we shall see what is written therein, and all things will be made plain. Until then I suppose we shall have to “learn to labour and to wait.”⁴⁶²

In June 1874, a Thames deputation asked the Superintendent, once more John Williamson, that a special settlement of miners be established on the Wairakau block, 10,000 acres upriver from Te Aroha and already partly purchased. Williamson was sympathetic.⁴⁶³ ‘Old Settler’ described the land as ‘not of first rate agricultural character, as far as we could learn, but admirably suited for grazing and cultivation combined’.⁴⁶⁴ The *Thames Advertiser* assumed that the central government would prevent its settlement,⁴⁶⁵ forecasting that the applicants would be ‘tired out’ if they waited until the land was opened:

Immense sums have been voted by the general government for the purchase of native lands in the province of Auckland, and very large amounts have been spent in the Thames district, but somehow or other there is no land to show for it, which bona-fide settlers can get, although speculators who know the right way to work can manage to acquire land, to hold for a few years, and then sell at a huge profit. The money applied to the purchase of native lands here is not devoted to buying a block and then opening it for settlement, but it is scattered in dribblets amongst a host of people as part payment on lands which they have or have not. In the meantime the land is as useless as ever.

Concerning Wairakau, only £4,000 had been paid on account, and it anticipated that Maori would say ‘that the £4,000, if paid at all, has been paid to the wrong men, and so we’ll all be kept waiting for ten years to come’.⁴⁶⁶

⁴⁶² Ohinemuri Correspondent, *Thames Advertiser*, 3 February 1874, p. 3.

⁴⁶³ Minutes of deputation to John Williamson, 10 June 1874, Auckland Provincial Government Papers, ACFM 8180, 1332/75, ANZ-A.

⁴⁶⁴ Letter from ‘Old Settler’, *Thames Advertiser*, 15 June 1874, p. 3.

⁴⁶⁵ *Thames Advertiser*, 15 June 1874, p. 2.

⁴⁶⁶ Editorial, *Thames Advertiser*, 15 June 1874, p. 2.

This plan to establish a special settlement was one of a series of attempts to acquire land for unemployed miners 'up-country', especially in Piako.⁴⁶⁷ Official reluctance to encourage plans for settlements was due to the political implications: a Waikato correspondent wrote in July that Tawhiao had 'instructed Major Te Wheoro to hold the Te Aroha lands in his hands, and will not allow them to be leased or sold'. Ngati Haua, 'including the King party', were 'prepared to fight' Ngati Maru should the latter lease or sell land.⁴⁶⁸

In August, when Maori 'preparing for a large feast in the Thames District' required funds, officials reached an agreement to lease 7,000 acres 'at the base of Te Aroha Mountain' and money on account was paid to some owners.⁴⁶⁹ This 'feast' and meeting, held at Whakatiwai, on the western side of the Firth of Thames, was attended by about 1,000 Maori from Hauraki and Waikato,⁴⁷⁰ and the agreement was to help meet the cost.⁴⁷¹ At this meeting, Mackay belligerently pointed out that money advanced through raihana would have to be repaid by selling land. All the land up to Te Aroha had 'been dealt with by him in some way or other', but he cleared Ngati Paoa 'from the accusation that they had received £200 on account of land at the Aroha', for it was for land in Piako and Waitoa.⁴⁷² There was much private discussion about Mackay's charge that owners had secretly sold interests in Ohinemuri and Te Aroha. A correspondent visiting the Ngati Maru camp found them sitting silently after a rangatira had told them 'to up and tell all, as it was foolish now to attempt to keep the matter secret, but that they had much better make a clean breast of it' to enable them to 'know what position to take' at the next day's meeting.

⁴⁶⁷ For example, Robert Comer and others to Superintendent, 28 January 1875; Michael Hennelly and others to Superintendent, 3 March 1875; T.B. Hicks and others to Superintendent, 20 March 1875, Auckland Provincial Government Papers, ACFM 8180, 1332/75, ANZ-A.

⁴⁶⁸ Alexandra Correspondent, *New Zealand Herald*, 8 July 1874, p. 3.

⁴⁶⁹ Evidence of W.H. Grace, 'Report of the Tairua Investigation Committee', *AJHR*, 1875, I-1, p. 33.

⁴⁷⁰ See paper on Maori land in Hauraki.

⁴⁷¹ For details of the expensive festivities, see Special Correspondent, *Thames Advertiser*, 14 August 1874, p. 3, 15 August 1874, p. 3.

⁴⁷² Special Correspondent, *Thames Advertiser*, 20 August 1874, p. 3.

At last one gets up, and explains that he has taken raihana not for the Aroha, but for the Waihekau block, at Waitoa (about five miles from the Aroha.) So he is exonerated, for the tribe are evidently in a forgiving mood, unless it is a very plain case indeed, and perhaps also because they know that they are all more or less implicated, and are only too anxious to extend that sympathy to others which they would be glad to get accorded to themselves. The making use, however, of the name Waihekau by the first speaker has opened a loophole of escape for all the others, and they are not slow to avail themselves of it, for now they stand up one after the other in quick succession, and state that they have all taken money for raihana, but not for the Aroha, oh dear no; only for the Waihekau block; they are quite sure it was only for Waihekau, but the scheming European may have written it down as the Aroha, for the pakeha will do anything. Poor Ngatimaru, how hardly you are being treated, and to think that you should be able to draw money in fifties, and hundreds of pounds on certain lands, and then not be allowed to shift it on to other blocks, as it may suit yourselves.

The largest Waihekau block was owned by Ohinemuri Maori, but as the other blocks were small it was 'difficult to see how all these people now charged with selling the Aroha will be able to prove that their transactions only affected these blocks – it may be the illustration of the fact that the drowning man catches at a straw'. The correspondent wanted Mackay to state

for what particular portion of the Aroha these sums of money and stores were taken, and who were the recipients, as it is well known that Maoris are perfect masters in the art of deception even amongst themselves, so that those who have been selling in this underhand way will deny before their companions that they have done so, and those like Te Hira and a few others whose lands may not yet have been sold will still be as obstinate as ever, being only too glad to believe in the innocence of their people.⁴⁷³

On the last day of the meeting, Wiremu Kingi, 'an influential chief' of Mercury Bay, announced 'that although many had shares in the Aroha block, of small and large extent, the whole of the place was his, and he intended to hold on to it'.

⁴⁷³ Special Correspondent, *Thames Advertiser*, 21 August 1874, p. 3.

NGAKAPA WHANAUNGA said that if the land had been paid for in stores alone, he (Wiremu Kingi) might be able to hold on to it, but if it was paid in money you won't be able to keep it. It was through the tribes being in want that they sold it, and it would have to go as payment for the money of the pakeha. If Mr Mackay states that no advances have been made on the Aroha we will take off our hats and salute you (Wi Kingi); but if it is not so, those blocks will have to go. Some of the chiefs themselves have sold.

Mackay then stated that Ngati Tamatera 'had sold all their lands outside the Ohinemuri district, and when the money was spent they then sold Ohinemuri and Te Aroha. What land is this you are talking about holding on to? Why it is all sold'.

TE KARAUNA here interrupted Mackay by saying that the money he had taken was on account of Waiuhakauranga; when Mr Mackay told him that he had his receipt for a large sum of money taken on account of Te Aroha; he would not expose them or give the amounts received, only in the cases of those who denied taking the money.

After Karauna ceased to deny receiving money for Aroha, Mackay told Te Hira that he could not stop land being opened because his relatives had taken money for it, and said 'Ohinemuri and the Aroha are both open'. Later,

W. H. TAIPARI said that monies that had been advanced on the Aroha alone amounted to over £1,000.

TE KARAUNA (who was slightly elevated): Although Ohinemuri may be closed, the Aroha shall be opened: I will open the land.

The last business of the meeting was to agree that 'a claim for a division of a portion of Te Aroha block should be adjourned' until November.⁴⁷⁴

One week later, 'Only Three Possum Power', in an attack on Mackay's methods of acquiring land, wrote that from £1,400 to £1,500 had been advanced on the Aroha.⁴⁷⁵ Later in September, the *Thames Advertiser* reported 'on good authority' that Mackay was 'negotiating the purchase of a

⁴⁷⁴ Special Correspondent, *Thames Advertiser*, 24 August 1874, p. 3.

⁴⁷⁵ Letter from 'Only Three Possum Power', *Thames Advertiser*, 1 September 1874, p. 3.

large block of land comprising 300,000 acres, and extending beyond the Aroha to the Waikato'.⁴⁷⁶

PAYING NGATI HAUA

In November, Te Wharenui Te Moananui of Tauranga told McLean that he had heard that Te Reiti had received £1,450 and asked for £2,000.⁴⁷⁷ Three months later, when in Hamilton, McLean met Te Reiti and Te Wheoro, representatives of Ngati Haua, and bought out all their interests in the block.⁴⁷⁸ He allocated £1,200 to Ngati Haua and £800 to Waikato, 'the Hauhau section to be dealt with separately', which he would arrange with Tawhiao.⁴⁷⁹ In June, he was prompted to pay the money, the amounts of which were changed by Te Raihi to be £1,150 for Ngati Haua and £850 for Waikato.⁴⁸⁰ As for Te Wharenui, Mackay had noted: 'If this man has a claim it is as a Ngatihaua, he must come in with the rest of the tribe.'⁴⁸¹ Te Wharenui continued to reject this, because whereas Ngati Haua claimed through conquest, he claimed through ancestry, and continued to apply for £2,000.⁴⁸²

Because not all the money promised to Ngati Haua had been paid by May 1876, Te Raihi 'and all the Tribe' sought a meeting with McLean.⁴⁸³ The following month, Henry Alley, since his Waiharakeke debacle a strong

⁴⁷⁶ *Thames Advertiser*, 22 September 1874, p. 2.

⁴⁷⁷ Te Wharenui Te Moananui to Donald McLean, 18 November 1874, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁷⁸ *Thames Advertiser*, 12 February 1875, p. 3; H.T. Clarke to Donald McLean, 13 July 1875, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁷⁹ Donald McLean to Wi Te Wheoro, 14 June 1875; memorandum by Donald McLean, n.d. [July 1875], Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁸⁰ Mohi Te Rongomau, Hemi Te Awaitaia, Hakopa Kotuku, Wiremu Ngaweka to H.T. Kemp, 21 June 1875; Wi Te Wheoro to Donald McLean, 24 July 1875, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁸¹ Memorandum by James Mackay, 9 April 1875, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁸² Te Moananui Te Wharenui to Donald McLean, 5 July 1875, Maori Affairs Department, MA 1, 13/85, ANZ-W.

⁴⁸³ Te Raihi to Donald McLean, 26 May 1876, Maori Affairs Department, MA 1, 13/85, ANZ-W.

critic of land purchase policy,⁴⁸⁴ announced that an unnamed Maori returning from Cambridge had told him that McLean had given £3,000 to Ngati Haua for the Aroha block, of which £2,000 went to Queenites and the remainder to Hauhau. According to Alley, McLean had paid the Kingites ‘to complicate matters and make the public believe he has done something’.⁴⁸⁵ In 1883, Te Wheoro would tell the Native Minister that the ‘loyal’ Ngati Haua and Waikato had received a total of £2,500. ‘Te Raihi and I returned £500 of that amount to Sir Donald McLean at Hamilton as a gift from the loyal Waikatos and Ngatihauas to the rebel Waikatos and Ngatihauas’.⁴⁸⁶

In January 1877 Mackay went to Waikato ‘to settle with’ some of the hapu there ‘respecting their claims’.⁴⁸⁷ Tawhiao was to receive £500, according to the press not because of ‘any right’ to the land but ‘in recognition of his position, or *mana*, and because his acceptance of the money will be taken as a pledge that he will make not difficulties at all about its occupation’.⁴⁸⁸ Mackay soon reported that his negotiations with Waikato hapu were ‘proceeding with every prospect of success’.⁴⁸⁹ Before March he had paid Ngati Haua and Waikato claimants ‘according to Sir Donald McLean’s arrangement’.⁴⁹⁰ As all these people had signed the deed of cession, the only owners still to settle with were those still living on the land.⁴⁹¹ In 1878, some Ngati Haua rangatira would claim to have been deceived by Mackay because they had unwittingly signed away interests in other land as well, but then dropped their complaint.⁴⁹²

ATTEMPTS TO PURCHASE THE BLOCK CONTINUE

⁴⁸⁴ For example, Henry Alley to Sir George Grey, 29 May 1875, Auckland Provincial Government Papers, ACFM 8180, 980/75, ANZ-A; *Thames Advertiser*, 18 May 1876, p. 3.

⁴⁸⁵ *Thames Advertiser*, 7 June 1876, p. 3.

⁴⁸⁶ Wi Te Wheoro to Native Minister, 22 August 1883, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁴⁸⁷ *Thames Advertiser*, 19 January 1877, p. 3.

⁴⁸⁸ *Auckland Weekly News*, 27 January 1877, p. 8.

⁴⁸⁹ *Thames Advertiser*, 27 January 1877, p. 3.

⁴⁹⁰ James Mackay to H.T. Clarke, 1 March 1877, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁴⁹¹ *Auckland Weekly News*, 3 March 1877, p. 8.

⁴⁹² Native Lands Court, *Thames Advertiser*, 26 July 1878, p. 3.

In February 1875 the *Thames Advertiser* considered that, as Ngati Haua 'had some claim', McLean was right 'to extinguish it when he got the opportunity', and hoped he would deal promptly with Ngati Maru. 'There is a pressing necessity for dealing with the land, in the fact that whether Ohinemuri turns out well or ill, the miners will inevitably say that it is at Te Aroha where the richest gold will be found. A little experience of human nature, and of digger nature, must convince the Native Minister of this'.⁴⁹³ Two months previously it had reported that a settlement was planned for 'a block in the Te Aroha district'; Pollen had promised to 'promote it', an agreement had been made to buy the land, and some money had been paid.⁴⁹⁴ In mid-January a Hamilton meeting advocated extending the existing road into the Piako district to Te Aroha, and the line for this road was decided during the late summer.⁴⁹⁵ Also in mid-January a steamer took a 'large party of leading Thames citizens' to Te Aroha's hot springs.⁴⁹⁶ One month later a 'great meeting' was held at Te Aroha at which various 'tribes of the interior' discussed 'their position', and two weeks later another korero discussed boundaries.⁴⁹⁷ The government considered the boundary of the Ohinemuri goldfield was Mangaiti, and did not want anyone prospecting south of there.⁴⁹⁸

In mid-July, McLean's under-secretary, Henry Tacy Clarke,⁴⁹⁹ noted that 'the question of the Aroha lands has been one of great anxiety to the Government owing to the rival Claims'. He knew that McLean was aware of 'the serious Political difficulties that might arise if the Aroha claim is left in its present position'.⁵⁰⁰ Because of the raihana scandal Mackay was told to make all advances in cash and that 'no such compromise as in the Ohinemuri business could ever be agreed to, and that he must accept strict

⁴⁹³ Editorial, *Thames Advertiser*, 12 February 1875, p. 2.

⁴⁹⁴ *Thames Advertiser*, 5 December 1874, p. 2.

⁴⁹⁵ *Thames Advertiser*, 18 January 1875, p. 3; *Auckland Weekly News*, 3 April 1875, p. 8

⁴⁹⁶ *Thames Advertiser*, 20 January 1875, p. 3.

⁴⁹⁷ *Thames Advertiser*, 18 February 1875, p. 3, 1 March 1875, p. 3; *Auckland Weekly News*, 6 March 1875, p. 9.

⁴⁹⁸ *Thames Advertiser*, 22 February 1875, p. 3; for 1876 map of 'Ohinemuri Native Reserves', showing the boundary as Mangaiti Stream, see Auckland Provincial Government Papers, ACFM 8180, 1587/76, ANZ-A.

⁴⁹⁹ See *Cyclopedia of New Zealand*, vol. 2, p. 574.

⁵⁰⁰ H.T. Clarke to Donald McLean, 13 July 1875, Maori Affairs Department, MA 1, 13/85, ANZ-W.

personal responsibility for all his proceedings'.⁵⁰¹ Mackay responded that as he understood this to mean that the government did not want a lease, 'even if offered, and only to entertain the question of purchase', he needed to know the maximum rate per acre it would pay.⁵⁰² In December, when Mackay, in requesting another advance, stated that the block could not be bought for 3s an acre, McLean noted: 'I certainly would give more than 3/- per acre for the whole block all expenses included'.⁵⁰³

At some date before 1876, a trig station was established on the summit of Te Aroha mountain. A visitor to Owharoa in January that year saw 'the cap of Te Aroha' with 'its trig-station staff showing like a line against the clear blue sky'.⁵⁰⁴ In July 1875 two surveys of portions of the block had been underway, one of 5,000 acres and the other of 800, both for private speculators.⁵⁰⁵ These surveys prompted complaints at Thames that capitalists were obtaining all the good land and locking it up,⁵⁰⁶ and also provoked disapproval from some Maori landowners. In mid-July 1875, surveyor Alfred Joshua Thorp returned to Ohinemuri from Te Aroha, 'having been stopped when surveying by some of the Ngatimaru natives who are living at Te Aroha. They took away his theodolite and tools, and refuse to give them back'.⁵⁰⁷ When Sub-Inspector Stewart Newell went to Te Aroha to investigate, those responsible 'agreed to give them up quietly'.⁵⁰⁸ But one month later Johnson reported that they had not done as promised:

They told Captain Newell that they would give them up when they received an answer to a letter which had been sent to Mr Puckey. Mr Thorp sent up a native in a canoe to get the things, but he was told that they would not be given up until they knew

⁵⁰¹ Daniel Pollen to Donald McLean, 24 November 1875; Donald McLean to James Mackay, n.d. [24 November 1875?], Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

⁵⁰² James Mackay to Donald McLean, 25 November 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

⁵⁰³ James Mackay to Donald McLean, 2 December 1875; memorandum by Donald McLean, 3 December 1875, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

⁵⁰⁴ Special Correspondent, *Thames Advertiser*, 20 January 1876, p. 3.

⁵⁰⁵ *Thames Advertiser*, 27 July 1875, p. 3.

⁵⁰⁶ *Thames Advertiser*, 15 July 1875, p. 2.

⁵⁰⁷ Ohinemuri Correspondent, *Thames Advertiser*, 15 July 1875, p. 2.

⁵⁰⁸ Ohinemuri Correspondent, *Thames Advertiser*, 19 July 1875, p. 3.

who was the “ariki” [lord]⁵⁰⁹ of the survey – i.e., who engaged Mr Thorp to do the work.⁵¹⁰

Two and a half months later, Thorp sued two Maori for £50 in damages. The evidence showed that, when his goods were returned by Puckey, acting as his agent, Thorp had accepted them without comment or any suggestion of suing for damages, and his lawyer had settled for £7 10s. Thorp stated he had not authorized that amount, and that ‘he had lost a great deal of time and money over this affair, and he would have to get compensation from the Government’. The magistrate commented that ‘he might claim what he liked from them. – The proceedings in this affair were of such a nature as to set all present laughing’.⁵¹¹

Early in 1876, Sir George Grey, the last Superintendent of the Auckland Province, received a request from Mackaytown residents for a road to Te Aroha to open up a ‘large area of First Class Agricultural Land’.⁵¹² He responded in March that, ‘from the feeling of the Te Aroha Natives, and also from the views of the Government in regard to that Block it would not be judicious to have the Road made at present’.⁵¹³ In October, £1,000 was granted to make a road from Hamilton to the Ngati Rahiri settlement at Omahu, on the banks of the Waihou River near the future Te Aroha.⁵¹⁴

In May that year, Ngati Tumutumu, part of Ngati Rahiri, which in turn was part of Ngati Maru, presented evidence for its ownership of Orongomairoa, adjacent to the Aroha block. Its case was conducted by Reha Aperahama, whose first witness, Keepa Te Wharau,⁵¹⁵ claimed through ancestry. ‘The Ngatitumutumu are from Ngatiraukawa. It was they who took all their land including the Aroha. It was Te Ruinga who killed the original owners and took possession of the land’, and they claimed ‘by right

⁵⁰⁹ Ryan, p. 9.

⁵¹⁰ Ohinemuri Correspondent, *Thames Advertiser*, 14 August 1875, p. 3.

⁵¹¹ Magistrate’s Court, *Thames Advertiser*, 2 October 1875, p. 3.

⁵¹² Residents of Mackaytown to Sir George Grey, 21 February 1876, Auckland Provincial Government Papers, ACFM 8180, 500/76, ANZ-A.

⁵¹³ J.M. McLaren to Reader Wood, 1 March 1876, Auckland Provincial Government Papers, ACFM 8180, 500/76, ANZ-A.

⁵¹⁴ *Auckland Weekly News*, 21 October 1876, p. 13.

⁵¹⁵ See paper on his life.

of conquest'.⁵¹⁶ There was much argument about genealogy and gifts of land and eel weirs.⁵¹⁷ Mokena listed 41 Ngati Tumutumu, presumably all the hapu, who were owners.⁵¹⁸ One of the claimants of Ngati Werewere said that, 'after the hearing of the Aroha case', Ngati Tumutumu 'came to eject us. We did not go'.⁵¹⁹ The court awarded the land to Ngati Werewere because of a gift; their offer of £100 to satisfy the claim of Ngati Tumutumu was accepted.⁵²⁰

By mid-1876, Mackay had paid £4,175 19s towards the purchase of the Aroha block.⁵²¹ Other adjoining blocks were purchased during that year by private speculators: Thomas Russell acquired Hungahunga No. 1, of 8,155 acres, for £1,223 5s, and Hungahunga No. 2, just over 505 acres, for £75 17s; Frederick Alexander Whitaker⁵²² bought Orongomairoa, 3,323 acres, for £1,210; and James Palmer Campbell bought Te Kapara, 1,447 acres, for £381.⁵²³ These sales, negotiated since 1873 by hapu of Ngati Haua, caused controversy because potential small settlers saw themselves being shut out. As well, there was confusion over boundaries and title, sales having taken place before surveys were made or title granted; it turned out that portion of Waiharakeke, on the western side of the river, was part of the Aroha block.⁵²⁴ In these negotiations, Mackay had sought to acquire the eastern bank of the Waihou River for the government, leaving the swamps on the western side to be purchased by private individuals.⁵²⁵ In April a rumour spread in Ohinemuri that the Aroha block was 'about to be handed over to

⁵¹⁶ Maori Land Court, Waikato Minute Book no. 3, pp. 181-182.

⁵¹⁷ Maori Land Court, Waikato Minute Book no. 3, pp. 182-184, 186.

⁵¹⁸ Maori Land Court, Waikato Minute Book no. 3, pp. 185-186.

⁵¹⁹ Maori Land Court, Waikato Minute Book no. 3, p. 193.

⁵²⁰ Maori Land Court, Waikato Minute Book no. 3, p. 196.

⁵²¹ *AJHR*, 1876, G-10, p. 16.

⁵²² He was the only one of these three to invest in Te Aroha mining: see *New Zealand Gazette*, 30 December 1880, p. 1796, 28 April 1881, p. 476, 23 March 1882, p. 490, 27 April 1882, p. 647, 17 August 1882, p. 1131, 27 September 1883, p. 1369.

⁵²³ *AJHR*, 1883, G-6, p. 4; for maps of these blocks, see *AJHR*, 1883, G-8, pp. 17-18.

⁵²⁴ See 'Waiharakeke & Hungahunga Blocks of Land, (Return Relative to Proposed Purchase of)', *AJHR*, 1876, C-3A, pp. 2-10; 'Waiharakeke and Hungahunga Blocks (Further Papers Relating to the Purchase of)', *AJHR*, 1883, G-8, pp. 1-16..

⁵²⁵ Thomas Russell to James Mackay, 18 July 1874; James Mackay to Thomas Russell, 18 July 1874; Thomas Russell to Daniel Pollen, 31 July 1874; C.C. Bowen to Sir George Grey, 6 May 1875, 'Waiharakeke & Hungahunga Blocks', pp. 2, 5-6.

certain parties in Auckland in exchange for other land of much less value, the possession of which they have been deprived of by Maori.⁵²⁶ That month, the *Thames Advertiser* exclaimed that land was wanted for settlement in Aroha, Ohinemuri and 'the Upper Thames – not the Piako swamps', which Mackay was acquiring for a commission of up to £4,000.⁵²⁷

In late June, Johnson heard 'on pretty good authority' that the Aroha would 'soon' be opened for mining.⁵²⁸ Mackay, 'instructed to proceed to Te Aroha' to purchase land, was expected to go there late in September.⁵²⁹ In that month, 'a reliable source' spread a rumour that 'a number of capitalists' were conspiring to compete with the government to purchase it:

It is stated that these capitalists are prepared to give three or four times the price offered to the natives by the Government; that they are prepared to test the validity of the proclamation under the Immigration and Public Works Act, which makes direct purchases from the natives illegal, and, if they succeed in purchasing from the natives, intend to carry their obstruction so far as to appeal to the Privy Council.

The *Thames Star* worried that if 'mischievous land sharks' defeated the government's efforts 'to acquire this block as an estate for the people, it may be years before it will be opened for settlement'. As private individuals could 'exact exorbitant terms for the right to mine, and for small holdings of any kind', it called those involved 'enemies of the district, who deserve universal execration', and urged the government 'to deal summarily and severely with the agents of these schemers if they attempt to undermine the legitimate land purchase negotiations in progress'.⁵³⁰

Upon reading this report, John Gibbons, a Thames sawmiller and mining investor who would establish a mill at Te Aroha,⁵³¹ wrote to the press urging 'every resident on the Peninsula, (many of whom have been

⁵²⁶ *Thames Advertiser*, 15 April 1876, p. 3.

⁵²⁷ *Thames Advertiser*, 17 April 1876, p. 2.

⁵²⁸ Ohinemuri Correspondent, *Thames Advertiser*, 27 June 1876, p. 3.

⁵²⁹ *Thames Advertiser*, 6 September 1876, p. 3, 16 September 1876, p. 3.

⁵³⁰ *Thames Star*, 11 September 1876, reprinted in *Auckland Weekly News*, 16 September 1876, p. 11.

⁵³¹ See *Thames Times and Thames Miners' Advocate*, 22 February 1869, p. 2; *Thames Advertiser*, advertisement, 29 January 1873, p. 2, advertisement, 13 March 1873, p. 2, 10 June 1873, p. 3, 7 April 1884, p. 2, 28 April 1884, p. 2, 20 February 1886, p. 3.

waiting long and weary years for the opening of the Upper Thames to get a bit of land to settle on), to prevent 'such a robbery of their rights' by 'an Auckland speculator'. When the proclamation prohibiting private purchase expired, they should ensure its immediate renewal to avoid 'wholesale despoilation'. It was 'far better and safer for those of small and moderate means' to have the government as their landlord 'than a selfish, unscrupulous speculator whose only aim is to screw out the last farthing in the shape of rent'.⁵³² Robert Graham, owner of the Grahamstown portion of Thames,⁵³³ cited by Maori to be the speculator, denied the charge, although about eight years previously he had paid a deposit on about 100 acres there.⁵³⁴

Alley, who considered there was 'more likelihood of the Government agents trying to purchase it and pass it over to their friends', much preferred 'many private speculators' purchasing Maori land than for 'a corrupt Government to do so and pass it over to a few friends, as the Government has been doing for the past eight years'. He thought Maori, having 'a right to get the value of their land', should get the higher prices private speculators would pay. He claimed he could have bought '300,000 acres of this land three years ago' if he had had the cash, and asked why the government had not bought it: 'Simply, Sir, because the Government had a compact with rebels to keep the honest and industrious European out of it, and thereby showing their despotic power over the fine land of the province'.⁵³⁵

AN IMPORTANT MEETING AT PUKERAHUI

In October 1876, Mackay informed the Premier that an advance of £10,000 was 'very urgently required to complete deeds of the Aroha & other blocks' that had been through the court.⁵³⁶ One month later, he announced he had obtained the 'offer of freehold of large areas extending from and

⁵³² Letter from John Gibbons, *Thames Advertiser*, 12 September 1876, p. 3; *Auckland Weekly News*, 16 September 1876, p. 14.

⁵³³ For eulogy of his life, see *Cyclopedia of New Zealand*, vol. 2, pp. 40-42.

⁵³⁴ *Thames Advertiser*, 22 September 1876, p. 2; *Auckland Weekly News*, 23 September 1876, p. 11.

⁵³⁵ Letter from Henry Alley, *Thames Advertiser*, 20 September 1876, p. 3.

⁵³⁶ James Mackay to H.A. Atkinson (Premier), 9 October 1876 (telegram), Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

inclusive of the Ohinemuri goldfield to Te Aroha', most of which could be 'purchased for 5s per acre, and even less'; he awaited instructions and funds.⁵³⁷ Johnson farewelled his departure for Te Aroha with the hope that he was 'as successful in his negotiations there as he was here'.⁵³⁸ Mackay was only briefly at Te Aroha, 'making preliminary arrangements for opening that block. A meeting of all tribes interested' would be held at Thames, 'when the matter will be fully discussed'.⁵³⁹ Te Hira and many others from Ohinemuri participated in this meeting, at Taipari's meeting house, Pukerahui.⁵⁴⁰ The *Thames Advertiser* wrote that it 'dragged its weary length along' when discussing other tribal boundaries 'without much good being accomplished', delaying consideration of the Aroha block.⁵⁴¹ On the following day, Mackay 'vigorously pushed on his transactions for the complete settlement of the purchase which he has made in Te Aroha and other blocks'.⁵⁴² As Te Hira and Te Moananui consented to the sale of the Aroha block, 'the only delay to the completion of the purchase' was a dispute between the former and Te Karauna 'as to the ownership of a small portion'.⁵⁴³ After considering Mackay's dealings in Piako, the meeting spent from 18 November to 2 December discussing the Aroha, a 'long debate' caused by Ngati Maru and Ngati Rahiri opposing Mackay charging the debts of other hapu to it.⁵⁴⁴ None of this debate was recorded in the press, but it was heated, and would lead to inter-tribal conflicts and yet another hearing about its ownership.

On the first day of December, Mackay met with the owners 'principally interested in the sale':

The seven natives appointed by the runanga to examine and audit Mr Mackay's accounts re the purchase of this land went over them with considerable care and astuteness, and finally signed the vouchers as correct. This, therefore, fairly settles the

⁵³⁷ *Thames Advertiser*, 26 October 1876, p. 2.

⁵³⁸ Ohinemuri Correspondent, *Thames Advertiser*, 28 October 1876, p. 3.

⁵³⁹ Ohinemuri Correspondent, *Thames Advertiser*, 4 November 1876, p. 3.

⁵⁴⁰ *Thames Advertiser*, 20 November 1876, p. 2; see Maori Land Court, Hauraki Minute Book no. 10, p. 453.

⁵⁴¹ *Thames Advertiser*, 23 November 1876, p. 3.

⁵⁴² *Thames Advertiser*, 24 November 1876, p. 2.

⁵⁴³ *Thames Advertiser*, 24 November 1876, p. 3.

⁵⁴⁴ Letter from Hoani Nahe to *Te Wananga*, 3 February 1877, pp. 49-51, reprinted in *Thames Advertiser*, 17 February 1877, p. 3.

question of the block, and effectually terminates all disputes except those of a tribal nature, which cannot in any way affect the matter of the purchase.⁵⁴⁵

The *Thames Advertiser* commented on these deliberations:

Whether it is on account of scarcity of money, or close attention to the business in hand, or a general improvement in the character of the race, it is certain that the conduct of the Maoris who have been assembled for the past fortnight in Shortland has been orderly, sober, and well-behaved. Now, however, that the negotiations for the purchase of Te Aroha blocks have closed, and that a considerable sum of money, the balance of the purchase money, is to be paid over to them within the next few days, it is probable that the storekeepers and publicans of Shortland will derive some advantage from the presence of their dusky brethren amongst them.⁵⁴⁶

ATTEMPTS TO COMPLETE THE PURCHASE IN 1877

In mid-January 1877, Mackay announced that he expected that ‘the Native title’, with the exception of the ‘necessary reserves’, would be ‘extinguished within about two months’. The reserves would be ‘laid out in such a manner as will suit the requirements of the occupiers, and will not in any way detract from the value of the remainder of the property for European settlement’.⁵⁴⁷ Shortly afterwards some Maori complained that Mackay was taking land ‘for goods which they have not received’. One newspaper considered that their protest might be ‘got up merely to obtain a higher price for the land, or to secure some favourable conditions’. It could be sufficiently serious to delay the acquisition of land for which ‘we thought all negotiations were finished, and with which the Waste Land Board has indeed already dealt’.⁵⁴⁸ The failure to complete this and other purchases frustrated potential settlers and prompted scathing press criticism of the system of paying large sums for land without reaching an agreement about how much more remained to be paid:

⁵⁴⁵ *Thames Advertiser*, 2 December 1876, p. 3.

⁵⁴⁶ *Thames Advertiser*, 5 December 1876, p. 3.

⁵⁴⁷ James Mackay to D.A. Tole, 16 January 1877, ‘Te Aroha Block and Mr Broomhall’s Proposed Special Settlement’, *AJHR*, 1878, D-8, p. 3.

⁵⁴⁸ *Auckland Weekly News*, 20 January 1877, p. 12.

This is an extraordinary way of doing business, as it places the purchaser almost entirely at the mercy of the seller, who may exact a high price, and cause great delay and obstruction. And we find what has been the result in the Te Aroha case. That block was claimed by a Waikato tribe, and by the Thames tribes. Heavy payments were made to the Waikatos, and money has been paid to them within the last few weeks, although the Native Lands Court has decided that they have no claim. The full price will have to be paid to the Thames people, whatever the Waikato tribes may have received. But the judgment of the Court was, that the land belonged to several tribes, each in turn divided into sections, and in advancing money due heed seems scarcely to have been taken as to whether the persons were owners or not. Then it seems that up to the eleventh hour nothing has been said about reserves, which it was known would be asked for, and now that part of the business has to be settled when much irritation has arisen, and when a contract has been entered into to sell the land for a special settlement [at Wairakau].⁵⁴⁹ It will be well indeed if it does not turn out that besides large reserves, considerable portions of the block have not to be divided off.⁵⁵⁰

At Te Aroha, early in the year there was conflict with Ngati Tamatera⁵⁵¹ and some Ngati Tumutumu were so discontented with Mackay's role 'in getting the land disposed of' that they threatened to shoot him if he went to Te Aroha.⁵⁵² The press understood that 'one small section' argued that he was responsible for others getting 'a larger part of the price', but nobody denied the sale or said that the land would not be given up.⁵⁵³ One politician believed that 'certain parties' who were 'personally interested in the Thames speculations', meaning attempts to establish a special settlement, were 'at the bottom of the difficulties'.⁵⁵⁴ Josiah Clifton Firth, a member of the Waste Lands Board, believed that Maori were 'quite willing that the land should be settled on the original terms'.⁵⁵⁵

⁵⁴⁹ See paper on special settlements in the Te Aroha district.

⁵⁵⁰ Editorial, *Auckland Weekly News*, 10 March 1877, p. 12.

⁵⁵¹ See paper on Ngati Rahiri versus Ngati Tamatera.

⁵⁵² *Thames Advertiser*, 1 February 1877, p. 3.

⁵⁵³ *New Zealand Herald*, 3 February 1877, p. 2; cited in *Thames Advertiser*, 5 February 1877, p. 2.

⁵⁵⁴ *Thames Advertiser*, 8 February 1877, p. 3.

⁵⁵⁵ *Thames Advertiser*, 15 February 1877, p. 3.

On 1 March, Mackay sent the Native Office a brief telegram: 'Natives Quarrelling among themselves has prevented further action re Aroha reserves. Going there now. Anything that can be done with Safety will be done'.⁵⁵⁶ At the end of May, the *Thames Advertiser* complained that succession orders and sub-divisions of claims to this and other blocks were not being dealt with because Mackay was not present. Maori were not willing to sign away their interests unless payment was made immediately.

If the Government desire to see these purchases completed, and we are assured by those who ought to know that such is their wish, they ought to send an accredited agent armed with the necessary authority, and the necessary funds, to close up these long pending negotiations. If the natives, on the other hand, are holding aloof from the court for any particular purpose, such as to delay the completion of the titles, steps ought to be taken to compel them to account for the monies advanced on behalf of these purchases.⁵⁵⁷

Mackay, as was his wont, immediately replied to the implication that he was neglectful. As he received a commission instead of being on a government salary, it was in his interest to complete the titles 'as quickly as possible'. He explained the difficulties created by the proposed special settlement and the conflict between Ngati Rahiri and Ngati Tamatera, but as the former were now willing to negotiate he hoped 'to conclude the purchase within a short time'.⁵⁵⁸ Two months later, he was able to report that in the 12 months to 31 July he had acquired 204 signatures to the deed of cession, paying out £12,859 13s.⁵⁵⁹ Despite this, 'Native Office incompetence' as well as 'Maori obstruction' was blamed for the failure to open the land for settlement.⁵⁶⁰

In June, Mackay provided 'a supply of fresh meat' to Maori from Te Aroha and elsewhere who were attending the court in Thames. 'It appears that the natives have been detained some days awaiting the pleasure of the Court, and their supply of food ran short, hence their appeal to Mr Mackay's

⁵⁵⁶ James Mackay to H.T. Clarke, 1 March 1877 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁵⁵⁷ *Thames Advertiser*, 31 May 1877, p. 2.

⁵⁵⁸ Letter from James Mackay, *Thames Advertiser*, 5 June 1877, p. 3.

⁵⁵⁹ *AJHR*, 1877, G-7, p. 9.

⁵⁶⁰ Editorial, *Auckland Star*, 17 July 1877, p. 2.

sympathy and liberality'.⁵⁶¹ It was not reported whether the government paid for it. At the end of July, Mackay informed the government that the Aroha was one of the blocks presenting 'the greatest obstacles to their acquisition', partly because of 'the peculiar state of the title' with the claims of Marutuahu were 'intermixed with those of the semi-conquered remnant of the original owners of the land'. As well, the 'very high prices' paid to Pakeha landowners in 'Waikato, Upper Piako, and Waitoa, by purchasers from the South Island and elsewhere' was 'well known to the Natives'.⁵⁶²

NGATI TUMUTUMU CLAIM TO BE THE SOLE OWNERS

On 13 January 1877, a copy of a letter sent to McLean on 3 December the previous year was published, as an advertisement, in the *Thames Advertiser*. Although signed by 71 Ngati Tumutumu, for some reason Karauna Hou, the principal rangatira, was not a signatory. It complained about Mackay 'charging without reason against our lands at Te Aroha the "Raihana" and debts of the Hauraki tribes who are not connected with us (the owners)'. Mackay had committed a 'very great' wrong in taking their land 'without any right' as 'payment for debts and money that he and his Europeans have advanced to tribes who have no title or ancestral claim to the Aroha Block'. They told McLean that 'we intend to retain possession of our land, and that we will not give it up in payment for the debts of those other tribes', so that he would not be 'unjustly angry' about their action. The 'only reason' Mackay had for 'setting up claims for those tribes', the court's decision that the land was owned by one ancestor, Marutuahu, was 'correct and perfectly right' and all the signatories were his 'direct descendants', but they did not base their claim on him. 'We cultivated on it and did everything which, according to Maori custom, gives personal titles to ownership of lands'. Te Aroha 'belonged to our ancestor only' and was always cultivated by those known as Ngati Tumutumu. 'Ngatitumutumu owned this land originally, and still do so. Our ancestors and our tribe were not destroyed or conquered by Marutuahu or his descendants, but we became one people (afterwards) by the intermixing of the descendants of Ngatitumutumu with the descendants of Marutuahu'.

At the rehearing, the court 'evidently thought' that the dispute about ownership 'was not a dispute between separate families of one tribe, but it

⁵⁶¹ *Thames Advertiser*, 11 June 1877, p. 3.

⁵⁶² James Mackay to Minister of Public Works, 31 July 1877, *AJHR*, 1877, G-7, p. 8.

was a dispute between two totally different tribes', Marutuahu and Waikato. The court had decided that the Marutuahu hapu with the 'strongest' claim were Ngati Maru and Ngati Tumutumu, which was 'both correct and well understood', but Mackay was 'plundering our land' to pay the debts of tribes with no claim. During the November meeting it had been stated that Mackay 'had no right to charge some of the debts of the Hauraki tribes against Te Aroha, as those tribes had not agreed with him that those debts were to be charged against' it. Nevertheless, Mackay had 'persisted' because 'he stated that all the tribes of Hauraki had a claim on Te Aroha through "Marutuahu," and according to European law, as Marutuahu was the name of all the tribes' of Hauraki.

The petitioners wanted McLean to tell Mackay that he 'should not incite the tribes to lay claim to Te Aroha; and that he should not proceed there merely for the sake of pointing out certain lands there, as he has no knowledge of the boundaries'. Instead, 'let us Maoris dispute among ourselves. We ask you to do this because we are sure these tribes will never come to Te Aroha and dispute with us, that is, if Mr Mackay does not accompany them for the purpose of making them strong (to contest with us)'. Should the others come without Mackay, 'they would be ashamed and frightened lest they should be held in derision by the eye of "Truth," which would gaze upon them in their foolishness should they ignorantly proceed to Te Aroha'. Mackay should be instructed not to survey their land, and 'at the present time he should not go at all to Te Aroha'.

It is not that we are refusing to give this land up to the Government. We are willing to give it up to the Government, but as payment for our own debts only, and for money that we and our hapus have had.

A great principle is involved in this application of ours to you concerning Te Aroha, as we apprehend that trouble will foolishly originate in this district on account of the determined opposition of this European who seizes our land to pay for the debts of his tribes. But rather leave matters concerning this land and this trouble for the Hauraki tribes to settle among themselves, as the Hauraki people are noted above all other tribes of this island (for their skill in settling disputes), and have been so from the time that the Gospel was introduced amongst them, down to the present. They have never had any quarrels either amongst themselves or with any other tribes.

After this last, extraordinary, claim, they repeated that Mackay should not go to Te Aroha 'lest trouble should ensue and we have cause to blame

one another in the future'. They wished 'the tribes themselves to go there, so that the Government may find out who are the real owners of the land which is being taken by Mr Mackay, and this can be known by their being able to point out on the ground portions of Te Aroha owned by them'.⁵⁶³

Presumably as a result of this letter, Mackay went to Te Aroha on 2 January 'to explain away some misunderstanding', accompanied by other Pakeha, including Frederick Alexander Whitaker,⁵⁶⁴ son of the Attorney General, a lawyer, politician, and prominent land speculator who would later invest in Te Aroha mining.⁵⁶⁵ According to a Pakeha Maori living near Te Aroha, Ngati Rahiri protested to Mackay about his giving Ngati Tamatera money for their land, saying 'he might as well throw it into Hauraki, that they alone were in possession of the land, and they alone had the right to take or withhold the money'.⁵⁶⁶

On 16 February, three named rangatira 'and others' of unspecified hapu responded to Ngati Tumutumu's letter by publishing a public notice in the *Thames Advertiser* confirming that 'We the people of the other tribes have not a title to Te Aroha'. Those who took money on account of Ngati Tumutumu land had done so because Mackay 'insisted that they should' so that 'some of their debts might be paid for out of part' of the purchase.⁵⁶⁷ The following day, a letter from Hoani Nahe, Member of Parliament for Eastern Maori, was reprinted, stating that Te Aroha had been discussed at the korero held at Pukerahui from 18 November to 2 December 1876, a 'long debate' caused by 'the obstinate stand' of Ngati Rahiri and Ngati Maru objecting to parting with the block because Mackay was charging the debts of Ngati Whanaunga, Ngati Paoa, Ngati Tamatera,

and other sub-tribes against the Aroha Lands. They consent that Te Aroha lands should be charged with the debts contracted by their young men for spirits, and they say it is right that Te Aroha lands should go for the debts of the drunkards of their own tribe. I

⁵⁶³ Letter from Ngati Tumutumu to Sir Donald McLean, 3 December 1876, printed in *Thames Advertiser*, 13 January 1877, p. 3.

⁵⁶⁴ *Thames Advertiser*, 4 January 1877, p. 3.

⁵⁶⁵ See *Observer*, 23 October 1880, p. 43, 29 October 1881, p. 104, 18 March 1882, p. 14; editorial, *New Zealand Herald*, 13 June 1884, p. 4; *Waikato Times*, 11 June 1887, p. 2, 10 November 1894, p. 2.

⁵⁶⁶ Letter from J.H. Smallman, *Auckland Weekly News*, 29 December 1877, p. 5.

⁵⁶⁷ Notice signed by Tuterei Totara, Hona Taiawa, Hawira Te Wahapu and others, *Thames Advertiser*, 16 February 1877, p. 2.

spoke to the people of the Ngatirahiri tribe. I spoke of my own accord. I said men have no claim through the decision of the Native Lands Court which gave Te Aroha land in the name of Marutuahu, as men have no hereditary right from their ancestors now. And the decision of the Native Lands Court was given in the name of Marutuahu.... The Ngatimaru and Ngatirahiri now hold the land, on account of the persistent claim put forward by the Ngatirahiri. And if the tribes are not allowed to have a claim in Te Aroha, Mackay will pay each tribe, and not wait for the Ngatirahiri to consent. This having been spoken, the Ngatirahiri and Ngatimaru at once left, and went to Te Aroha, and as they were departing they said:- "Let not Mr Mackay come to Te Aroha, but send those tribes who have been allowed by him to claim land there so that such tribes can point out the boundaries of the land which belonged to them." And the last words said by those tribes (the Ngatirahiri and Ngatimaru) were, they would cause trouble about the land Te Aroha, and they have written to Sir Donald McLean to that effect, thinking they would cause Sir Donald McLean to communicate with Mr Mackay that he (Mr Mackay) should not go to Te Aroha. After the Ngatirahiri left, the Ngatiwhanaunga tribe received money on account of Te Aroha, also Ngatitamatera and Ngatipaoa received money with other tribes.⁵⁶⁸

The following month, the *Thames Advertiser* noted that Hoani Nahe now wished 'to make it appear that the only descendants of Marutuahu are the Ngatitumutumu hapu, now resident at Te Aroha'.⁵⁶⁹ Puckey later wrote that Ngati Rahiri, 'after accepting certain payments on account of their interests, pretend to claim through Te Ruinga, and say Marutuahu was not entitled, nor his descendants either, except in so far as Te Ruinga's descendants choose to recognize them'. Before 'the promulgation of this new theory', other hapu descended from Marutuahu had 'parted with their interests'.⁵⁷⁰ The newspaper pointed out that Ngati Rahiri had 'made no objection to Ngatimaru, Ngatipaoa, and Ngatitamatera paying proportionate shares of the legal expenses' of the court hearing. 'When it was proposed to divide the block among the four hapus forming the Marutuahu confederation', they did not object, nor did they rebuff the many

⁵⁶⁸ Letter from Hoani Nahe to *Te Wananga*, 3 February 1877, pp. 49-51, reprinted in *Thames Advertiser*, 17 February 1877, p. 3.

⁵⁶⁹ *Thames Advertiser*, 17 March 1877, p. 3.

⁵⁷⁰ E.W. Puckey to Under-Secretary, Native Department, 8 June 1877, *AJHR*, 1877, G-1, p. 5.

statements that the land belonged to 'all the tribes of Hauraki'. The conflict was over the money to be received.

When the principal men of Ngatimaru, and the whole of Ngatipaoa, Ngatitamatera, and Ngatiwhanaunga tribes received payment for their interests in the Aroha, the Ngatitumutumu, an off-shoot of Ngatimaru, set themselves up as the persons in favour of whom the Court decided the case, and had the impertinence to call themselves the only descendents of Marutuahu.

According to its summary of the hapu's history, Ngati Tumutumu was one of six hapu who had once owned the land. Marutuahu killed many and drove the rest away: Ngati Tumutumu 'ran away to Patetere'. The remnants of the other five hapu were brought back by 'influential leaders' of Marutuahu

to live on the land as their vassals and eel-catchers. Then Ngatitumutumu sneaked back to Te Aroha, and became vassals of Marutuahu, and in time intermarried with them, but they never became free men, and, but for the introduction of civilisation and Christianity, they would be eel-catchers to this day. But for the protection of their feudal lords,

meaning the four main tribes of Marutuahu, 'they would have speedily disappeared' under the attacks of Ngati Haua and the Waikato tribes. 'This handful of erstwhile vassals of Hauraki' now claimed the whole block 'and, under the protection of European law, dare to curse their feudal lords, who a few years ago would, in accordance with native custom, have simply exterminated them for such an offence'.⁵⁷¹

'Gossiper', who may have been a Maori, considered that this explanation revealed Pakeha 'ignorance', for Pakeha did not understand Maori customs about ownership and payment for land and Maori-speaking Pakeha had caused all the trouble. Ngati Tumutumu had fled Te Aroha because of the conquest of Ngapuhi, not for the reasons given by the newspaper. 'But at one time Ngatipaoa killed a woman belonging to Ngatitumutumu, [and] in retaliation Te Apa-o-terangi was killed', his death being 'the cause of the Ngatipaoa claim on Te Aroha'. This claim was wrong, for all the defeats of Ngati Tumutumu by Ngati Tamatera and Ngati Paoa

⁵⁷¹ *Thames Advertiser*, 17 March 1877, p. 3.

‘were avenged, and neither of those tribes would take upon themselves at the present time to order Ngatitumutumu to go and catch eels for them’.⁵⁷²

In late August the auditor general noted that the deed conveying the block to the Crown had been signed by 204 Maori but that a few more signatures were outstanding.⁵⁷³ But earlier that month Reha Aperahama and 47 other Ngati Tumutumu had petitioned parliament claiming the land for themselves:

1. That land, Te Aroha, belongs to us alone, to our ancestors, to our *hapu* Ngatitumutumu, and to us, some of the members of the Ngatimaru tribe, who are included amongst the descendants of Ngatitumutumu; and we and our *hapus*, who have permanently occupied this land, Te Aroha, from days long gone by up to the present day, have large interests in the land, and we are still exercising acts of ownership on the land according to Maori custom.

In 28 subsequent clauses the petition repeated the arguments used in their letter to McLean. Although no other hapu ‘had any right or title whatever to this land’, Mackay had ‘placed all the tribes of Hauraki upon our land’ by paying money to them. This payment had taken place in Thames and not at Te Aroha because those who received it could not point out their portions of the land, knowing ‘full well that neither they nor their ancestors had any right’. These hapu ‘were rejoicing on account of the unnecessary payment’ they received, and also ‘rejoiced at the needless payment to them’ by Mackay ‘of liquor, flour, biscuit, sugar, tea, and European commodities for our land’. As Te Aroha was ‘of very large extent’ and ‘land of good quality’, Mackay had ‘heedlessly paid money to all the tribes of Hauraki’ so that the government might get it and he would receive his commission. Although Mackay was correct in stating that all the tribes of Hauraki ‘had an interest in Te Aroha through the name of Marutuahu’, the ‘right to use his name’ rested solely with Ngati Tumutumu. They claimed that when all the Hauraki hapu attended the re-hearing they did so not ‘to assert their own rights to Te Aroha, but to substantiate the title of our ancestors, our *hapus*, or of ourselves, who are living upon our land’. They asked that the money paid should be ‘made a charge upon the lands of

⁵⁷² Letter from ‘Gossiper’, *Thames Advertiser*, 7 April 1877, p. 3.

⁵⁷³ Memorandum by Auditor-General, 21 August 1877, Maori Affairs Department, MA-MLP 1, 85/18, ANZ-W.

those who received it' and not 'upon our land'. Although they had written to McLean 'showing forth to him all these difficulties' and later had published their letter in the *Thames Advertiser*, they had not received a response. They mentioned the notice in the *Thames Advertiser* in February 1877 whereby 'certain tribes' stated they had 'really no valid claim' and that Mackay had 'urged upon them to take, without cause, Government money for our land'. After receiving this money, Meha Te Moananui had surveyed land within the Aroha block for himself and Ngati Tamatera. 'The Court has returned that land to your petitioners in accordance with the evidence given before the various Courts which have been held in respect of Te Aroha'. In conclusion, it repeated that other hapu had 'no right whatever to Te Aroha', despite Mackay paying them, and asked that parliament would 'regard with favour your petitioners while it is yet day, for the night cometh wherein no man can work'.⁵⁷⁴

When the Native Affairs Committee considered this petition in November, Hoani Nahe explained the disagreements over ownership. He now stated that no Maori living at Thames or Upper Thames had any right to the land, despite being granted it by the court; it should have been granted to Ngati Rahiri, the only hapu which attended the 1869 hearing. 'It is a custom amongst the Maories if any land belonging to any woman is taken away the whole of the relatives rush in and help to prevent the act being committed.... At the third investigation of this block the other Thames tribes stepped in to assist' and gave their account of who owned the land. 'It is very well known that the Court does not wish to accept outside evidence with respect to claims for land, only wishing evidence from persons known to know about it'. Although he had not attended the hearing he understood that the witnesses had told petitioners, outside the courtroom, 'that they have a right to the land'. The petitioners had shown 'the greatest energy' at the hearings, and Hoani believed 'in strict justice' that the other Hauraki tribes had 'no right whatever to claim that land.... My tribe and my relations have taken money upon this block but as I wish that strict Justice should be done I objected to the taking of money as we had no right to the land'. The ancestors cited by the Hauraki tribes had intermarried with the owners of the land. Mackay had divided the money amongst all the tribes 'notwithstanding the objections made at the time by the petitioners in a meeting'. The petitioners then 'proposed to go on to this land, settle there,

⁵⁷⁴ 'Petition of Reha Aperahama and 47 Others', *AJHR*, 1877, J-3, pp. 3-4.

and prevent any one whether Europeans or Native coming upon it', and had erected a pa.

Because all the other Thames tribes have been allowed to go there it has caused a great deal of complication amongst the Thames tribes, and none of the great Chiefs have been able to put a stop to it because they knew they have done wrong in taking money for this land. I was the only one who did not take part in receiving any money and who objected to the payment to the other Thames tribes, and therefore I was in a position to act as a sort of mediator to conciliate all parties. They agreed to accept my advice for a short time but not for good.

The petitioners wanted the government to require other hapu to charge their money to other land. 'Another objectionable thing' was that there was no Crown Grant or survey before the block went through the court. The latter had 'agreed to hear the case upon the sketch plan as between two tribes of the Waikato & the Thames in order to prevent any trouble arising through the survey being made while they were disputing'. As the names of the owners were still not determined, he wanted the committee to order that this should be done.

The second and last witness, the under-secretary, denied the petitioners' claim not to have received any money, for Treasury vouchers showed that Ngati Rahiri had received a 'large sum'; Karauna, for instance, who had a 'very good claim', received £150 on one account and £300 on another. As the land had been sold before a Crown Grant was issued, the question of legality had been raised.

The committee resolved that the question of title clearly was 'much more intricate than appears on the surface'. Because the court's judgment 'seems to have been misunderstood, and dissatisfaction has arisen partly in consequence of purchase money having been paid', it was alleged, 'to people not entitled to receive it', the committee, while 'not prepared to express a specific opinion on the merits of the case', nevertheless considered 'it desirable that further enquiry should be made' by the court.⁵⁷⁵

THE WAITOKI BLOCK CONTESTED

⁵⁷⁵ Petition 133, Legislative Department, LE 1, 1877/5, ANZ-W.

In July 1877, Ngati Rahiri contested the ownership of this 1,425-acre block, just to the north of the Aroha block, with Ngati Tamatera.⁵⁷⁶ The first witness for Ngati Rahiri, Makereta (also Makere) Tokerau,⁵⁷⁷ claimed through ancestry and occupation. 'We the N'Rahiri have never been disturbed' and 'no other people lived on this land that I know of'. A house belonging to a Pakeha had been erected 'by permission of Tareranui', of Ngati Tamatera. 'I do not deny that Tareranui has a claim on the land from his ancestor Toumurikura – who was also an ancestor of mine'. No member of Ngati Tamatera had cultivated there, and none had opposed Ngati Rahiri doing so. She admitted that Ngati Tamatera had captured Opera pa, on this land, but denied that Ngati Rahiri had been forced to leave. Asked whether the 'half-castes' living at Waitoki paid rent to Tareranui, who had placed them on this land, she did not know; Ngati Rahiri had not demanded rent 'because they are related'.⁵⁷⁸

Mokena, who also claimed from ancestry, gave details of 'fights on this land about a woman' who had died after being raped by 141 men and being buried by them 'with her head down and her heels up – She was buried up to the hips leaving her thighs and legs above ground'.⁵⁷⁹ After the rangatira responsible, Te Apaoterangi, was killed two years later in a conflict over eels, Ngati Tamatera responded by killing the women and children who were the sole occupants of Tutumangeo pa, at Te Aroha, which belonged to Ngati Hue. He gave details of generations of skirmishes and killings between Ngati Hue and other hapu and Ngati Tamatera, claiming that the latter 'never got payment for these defeats'.⁵⁸⁰ After the battle of Taumatawiwi, Ngati Paoa and Ngati Tamatera went to Thames: 'none of them stayed on the Aroha lands', but Ngati Rahiri 'lived at Ngahuoneone on the side of Waitoki'. Parakauare lived on Waitoki, which belonged to Ngati Hue, Ngati Paeahi, and Ngati Rahiri, and Ngati Tamatera 'never attempted to eject him'. Others, including himself, who lived on the land were listed; he had never seen any Ngati Tamatera living there.⁵⁸¹ Ngati Rahiri had cattle running on it, and Ngati Tamatera did not object. 'After Hou died Te Karauna and I had the Mana' of the land.

⁵⁷⁶ Maori Land Court, Hauraki Minute Book no. 10, p. 133.

⁵⁷⁷ See paper on Merea Wikiriwhi.

⁵⁷⁸ Maori Land Court, Hauraki Minute Book no. 10, pp. 134-136.

⁵⁷⁹ Maori Land Court, Hauraki Minute Book no. 10, p. 136.

⁵⁸⁰ Maori Land Court, Hauraki Minute Book no. 10, pp. 136-140.

⁵⁸¹ Maori Land Court, Hauraki Minute Book no. 10, p. 140.

A Pakeha lately commenced to split rails at Waitoki – The N’Rahiri burned the rails – A Pakeha named [William] Nicholls built a house on the land. We objected to his doing so because it was Tareranui who gave him leave to build the house. We threatened to burn it down but when we found that it had been built by order of Nicholls’ half-caste daughter [Charlotte] we made no objection – The girls were related to us.

He denied that Ngati Hue, Ngati Paeahi, and Ngati Kopirimau were ‘serfs’ of Ngati Tamatera.⁵⁸² Under cross-examination by Hoera Tareranui, Mokena denied that his ancestors had fled the district after several defeats by Ngati Tamatera or that some of the latter were killed to avenge the loss of Opera pa.⁵⁸³ Asked why he had not included more land in his survey, he replied that he only took in Makere Tokerau’s portion for ‘we wished to separate N’tumutumu land from ours’. Ngati Paeahi ‘and others’ owned the land from Mangaiti to Te Aroha, and he would only admit that Meha Te Moananui owned a portion of ‘one side of Mangaiti’, not all of it.

Did I not set up a post? Yes, and I destroyed it
 Is there not a post there now? Not that I know of
 Did you not destroy it quite lately? No
 Does your land extend beyond the [Ohinemuri] Goldfield? Yes
 N’Rahiri claim over all these Aroha lands? Yes
 Did they ever interfere with the Goldfield boundary? Makere let that go
 Did she lease the Goldfield? No, only her own portion
 Who arranged the matter? Mr Mackay
 Was it Makere who pointed out the boundary to Mackay? No
 Did Makere object? I do not know
 Why did you let the N’tamatera take your land? We object to the boundary
 Did they not come to oppose the line being taken on other side of Mangaiti? I do not know.

Asked whether ‘any of them’ claimed land north of Mangaiti, Mokena at first answered ‘I do not know’ but then said ‘Yes’.⁵⁸⁴ The questioning then reverted to past battles and killings of rangatira. Asked whether Taraia had told a Pakeha that ‘he was of low descent on one side, on side of Paeahi and

⁵⁸² Maori Land Court, Hauraki Minute Book no. 10, p. 141.

⁵⁸³ Maori Land Court, Hauraki Minute Book no. 10, pp. 141-142.

⁵⁸⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 142.

N'hue', Mokena replied: 'I only know he was not of low descent'. Asked to confirm that Ngati Tamatera called Taraia 'a serf of theirs', he responded: 'He was not a serf'. He admitted that Taraia had lived both with his hapu and with Ngati Tamatera and that his relatives were currently living with the latter and 'I could get them to live with me'. Although Taraia's daughter Mere Titia was living with Ngati Tamatera, she 'would live with us if we invited [her] as one of us'. He admitted that Taraia's children were born amongst Ngati Tamatera.⁵⁸⁵

You did not burn Nicholls house because his daughters were related to you? Yes

They had a right to live on the land? Yes

Then why should W. Nicholls pay rent? I do not know that he does

If W. Nicholls tells you that he pays me £30 a Year rent what will you say? I do not know, he should not pay you anything.⁵⁸⁶

At the time of the Waikato War Mokena had lived where Nicholls' house now stood and where Makereta still had peach trees.⁵⁸⁷ He denied that she was living on the land 'under the mana of N'tamatera'. After stating that she was a member of Ngati Koi, he said he did not know whether this hapu was 'under N'tamatera'. He admitted Ngati Koi into this land because, although they had no ancestral claim, they were connected with Makereta.⁵⁸⁸

As there were no other witnesses for Ngati Rahiri, the court then heard the case for Ngati Koi and Ngati Tamatera.⁵⁸⁹ Tanumeha Moananui of the latter declared that 'the cause of the destruction of N'hue, N'Kopirimaui, N'paeahi, Ngatitu and others of the original tribes was the killing of Te Apaoterangi': Ngati Tamatera 'destroyed them and took their land – The whole of their land was taken' and 'divided amongst the conquerors'.⁵⁹⁰ After one conflict, Ngati Rahiri and others abandoned Te Aroha and fled to Tutaetaka pa, near Tauranga, which was then taken by Ngati Tamatera.

⁵⁸⁵ Maori Land Court, Hauraki Minute Book no. 10, p. 143.

⁵⁸⁶ Maori Land Court, Hauraki Minute Book no. 10, pp. 143-144.

⁵⁸⁷ Maori Land Court, Hauraki Minute Book no. 10, p. 144.

⁵⁸⁸ Maori Land Court, Hauraki Minute Book no. 10, p. 145.

⁵⁸⁹ Maori Land Court, Hauraki Minute Book no. 10, pp. 146-160.

⁵⁹⁰ Maori Land Court, Hauraki Minute Book no. 10, p. 150.

After a time we made peace and brought the runaways on to the land as serfs – We had the Mana over both land and people. After a time our men took women of theirs to wife and the children were thus connected with both tribes – but the N'tamatera still retained the Mana – Those children were only Tutua [low-born],⁵⁹¹ being of a beaten tribe – None of those tribes we conquered have ever attempted to trouble us – Taraia was one of those who were related to both sides but he kept with us and was therefore looked upon as a chief; had he lived with the others he would not have been.⁵⁹²

Ngati Rahiri, Ngati Kopiramaui, and the other hapu had 'never fought us or killed one of our people since we conquered them and took their land'. Although Ngati Tamatera had placed them on the Aroha, they remained 'serfs – The land became ours and is ours still', and 'they must not attempt to set up a claim over us – We gave them no particular piece for themselves – We used to order them to catch eels for us but then we always gave them something in return'. Some Ngati Tamatera had lived on Waitoki, and had the tribe sold the land to the government it would have given Ngati Rahiri and others 'a share of the payment, just what we liked'. Ngati Rahiri had no claim on Waitoki, and he had not seen their cattle running on it.⁵⁹³

Hoera Tareranui of Ngati Tamatera stated that in 1874 he allowed Nicholls to live on the land and received the rent, Makereta raising no objection. He had seen neither her nor Mokena living there. 'I alone found fault with the Survey because [Aihe] Pepene⁵⁹⁴ had deviated from the old boundary'.⁵⁹⁵ The rent had been deducted from the cost of the survey.⁵⁹⁶

After hearing from other witnesses that Ngati Tamatera had obtained the land through conquest, the court granted the block to eight members of Ngati Tamatera, one of Ngati Hako, and one of Ngati Paoa.⁵⁹⁷

SURVEYING IN PREPARATION FOR SETTLEMENT

⁵⁹¹ Ryan, p. 48.

⁵⁹² Maori Land Court, Hauraki Minute Book no. 10, p. 151.

⁵⁹³ Maori Land Court, Hauraki Minute Book no. 10, pp. 152-153.

⁵⁹⁴ See paper on his life.

⁵⁹⁵ Maori Land Court, Hauraki Minute Book no. 10, p. 156.

⁵⁹⁶ Maori Land Court, Hauraki Minute Book no. 10, p. 158.

⁵⁹⁷ Maori Land Court, Hauraki Minute Book no. 10, pp. 146-150, 159-160.

In December 1877, the *Thames Advertiser* described the Aroha block as a 'promising and long-coveted locality'.⁵⁹⁸ In March that year the government had decided to have it surveyed 'without delay', and private speculators were warned that only the Crown could acquire the land.⁵⁹⁹ In June, it was reported that Alfred Joshua Thorp's survey party had been 'put to considerable inconvenience by the Aroha natives', for when away from their camp 'their tents were stripped and pulled down, and their goods scattered and stolen by the natives at Karauna's settlement'. Thorp intended to take legal action against them 'for injury to his property'.⁶⁰⁰ In September, when his claim for £50 for 'conversion of goods' was heard, Karauna 'recollected about the second of July last proceeding to the Aroha boundary. The majority of the tribe went up the river before he did; he never saw a tent, but heard that the plaintiff's tent had been taken by his tribe'. When Thorp came to his settlement, he was asked 'why he had surveyed some ground which he should not have done'. Thorp had not asked him who had taken his 'things', nor had Te Moananui's son been present. 'Witness had a double-barrelled gun in his hand at the time'. Thorp deposed going on 'about 7 June last' to survey the boundary.

The party pitched their tent, and commenced to survey the next day. He was employed the whole day taking bearings of the Aroha boundary. They camped away on Friday night at the base of the range. The next day (Saturday), about 11 o'clock, witness sent a native to put up a flag on the boundary, and he returned and said the flag had gone. They heard guns firing. They worked all day, and slept at a Maori settlement. Witness went to plaintiff's settlement, and asked for the stolen things, but defendant (Karauna) came out with a gun and ordered him back. Witness asked who it was had taken the things, to which he replied that they had all taken the things. Witness told him that if he would not give up the things he would make the law compel him; but defendant said that he did not recognise any law but the law their guns gave them.

Thorpe claimed £30 for the value of the goods and '£20 damages for loss of time'. The next witness, Hiriwai Te Moananui, said that after the party pitched their tent he went to get his coat, which he had left near the tent pole, but when he saw some armed Maori near it he returned. He heard

⁵⁹⁸ *Thames Advertiser*, 8 December 1877, p. 2.

⁵⁹⁹ *Thames Advertiser*, 14 March 1877, p. 3; *New Zealand Gazette*, 15 May 1878, p. 606.

⁶⁰⁰ *Thames Advertiser*, 11 June 1877, p. 3.

Karauna tell Thorp, 'Go back; I don't want you', and that he would not give up the stolen items, which 'they all had taken'. Another member of the party, Kerei, confirmed this conversation. Karauna, recalled to the witness box, said 'that the tent was not removed by his order', that he had not known it was to be removed, and that when it was pulled down he was 'some distance down the Waihou river'. Thorp had camped on Karauna's ground, and it was 'through persons surveying the land that stopped it from going through the court'. The judge ruled that Thorp 'must be non-suited'.⁶⁰¹

'Theodolite', recalling the surveys in 1911, stated that late in 1877 several parties were sent to survey for 'close settlement'. As Sir George Grey, the new Premier, 'was very anxious to get as many people as possible on the land, the surveyors received instructions through the Waste Lands Board not to make any section larger than 320 acres, while many were less than a hundred'. Maori reserves were larger, Wairakau containing 3,250 acres when first surveyed. The principal trig station was erected on the top of the mountain and there were 'numerous others, one for instance, in front of the hotel at Waihou'. The Ruakaka Block, bought by Samuel Stephenson before the government acquired it, was the first to be surveyed, along with a road from it to the punt across the river. When Frank Edgecumbe⁶⁰² and his party attempted to survey the northern boundary of the Wairakau reserve, where Ngati Rahiri had a settlement, 'there was a great dispute about striking the line. The Wahines came out in a great state of excitement and threatened to stop the work, as a number of the whares were left out of the reserve'. Edgecumbe sent one of his men to seek Mokena's help, and after a korero the work was allowed to proceed, and on other occasions Mokena's 'good offices' were required.⁶⁰³ He stated that Mokena's wife Rina paid for this 'subdivisional survey'.⁶⁰⁴

In August 1877, surveyors were trying to find an improved road between Paeroa and Te Aroha, 'the present track being anything but good', and by late October this survey was progressing well.⁶⁰⁵ In December, the council called tenders for cutting a new track by way of Rotokohu, a saving of about six miles and a 'considerable improvement on the old track'.⁶⁰⁶

⁶⁰¹ District Court, *Thames Advertiser*, 7 September 1877, p. 3.

⁶⁰² See *New Zealand Herald*, 18 May 1891, p. 4; *Waikato Times*, 19 May 1891, p. 2.

⁶⁰³ 'Theodolite', 'On the Survey of Te Aroha', *Te Aroha News*, 18 February 1911, p. 3.

⁶⁰⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 428.

⁶⁰⁵ *Thames Advertiser*, 14 August 1877, p. 3, 29 October 1877, p. 3.

⁶⁰⁶ *Thames Advertiser*, 7 December 1877, p. 3.

SETTLEMENT BEGINS

In August 1877 it was reported that the steam launch 'Riro Riro', then being overhauled, would soon renew 'her old trade' between Paeroa and Te Aroha and 'make regular trips once a week, and oftener should inducement offer'.⁶⁰⁷ One week later, the steamer 'Piako' made a special trip from Thames to Omahu pa at Te Aroha.⁶⁰⁸ A report on this 'flying visit' extolled the agricultural potential seen and noted that one hour by steamer past the pa there was a store (at Te Kawana, although this was not stated) 'erected by the Waihou Steam Forwarding Company' as a receiving house for goods.⁶⁰⁹ Two months later, the 'Riro Riro' brought down the first shipment of wool from the district, just two bales; the identity of 'the enterprising exporter' was not known,⁶¹⁰ but he would have been farming in the Waitoa district, not at Te Aroha.

On 17 November, 'all' of Ngati Ruinga, though only 12 signed it, sent a letter to Puckey from Omahu:

Greeting, This is our word to you, to let you know that a lease of Te Aroha block has been granted by Ngatirahiri. The names of the pieces that have been leased are Te Houtuku and Wairakau and they are owned by our "hapu" the Ngatiruinga. Great is our objection to this lease and we were very nearly fighting amongst ourselves on account of it.

The Europeans to whom the lease has been granted belong to Waitoa. We turned them away but they would not pay any attention to us. Ngatirahiri have disposed of Te Aroha, they have leased it to some Europeans. We intend to allow prospecting for Gold there, that is, we will give the Gold up for the Government to manage. We wish the Government to be expeditious in this matter as the Europeans who have leased are bounceable towards us.

It concluded with the warning that Hemi Kare, one of the signatories, had said that he would 'kill the European's cattle if they are found on the

⁶⁰⁷ *Thames Advertiser*, 25 August 1877, p. 3.

⁶⁰⁸ *Thames Advertiser*, 4 September 1877, p. 2.

⁶⁰⁹ 'A Flying Visit to Te Aroha', *Thames Advertiser*, 10 September 1877, p. 3.

⁶¹⁰ *Thames Advertiser*, 26 November 1877, p. 2.

pieces known as Te Houtuku and Wairakau' and a request that Puckey contact the Native Minister 'concerning this matter'.⁶¹¹

Three days later, Reha Aperahama sent a telegram to Hoani Nahe, just appointed as a Member of the Executive Council in Sir George Grey's new government, informing him that Ngati Rahiri had agreed to open Te Aroha.⁶¹² Reha asked him to inform the government that it would be opened for mining 'but it is to be leased. The persons who opened it are Karauna Hou, Keepa Te Wharau, Aihe Pepene and myself'.⁶¹³ None of these rangatira were members of Ngati Ruinga.⁶¹⁴ Hoani Nahe noted on the back of the second telegram that this was the first time he had been told of this decision, and suggested that the government 'should send word asking them to be quick and make arrangements'.⁶¹⁵ The following day, he received another telegram from Reha: 'The Gold for Ministers to manage. Ngati Rahiri took money for the flat. For that reason I say the Gold is for the Government and ourselves to arrange for'.⁶¹⁶

Johnson commented that Ngati Rahiri 'seem to have gone from one extreme to the other – from being the most strenuous oppositionists to the opening of the district for settlement [they] have suddenly turned round, and now seem anxious to lease and sell'. He warned potential settlers to 'be on their guard in dealing with them', as he understood Mackay had 'made large advances on some of the blocks'.⁶¹⁷ Five days later, the *Thames Advertiser* reported that it had been 'informed a few days ago that a number' of Ngati Rahiri were 'most anxious' to sell or lease their land; 'our informant was commissioned to make known the fact through the Press', but it had 'not thought it worthwhile to refer to the matter earlier because it

⁶¹¹ Mango Whaiapu and all Ngati Ruinga to E.W. Puckey, 17 November 1877, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁶¹² Reha Aperahama to Hoani Nahe, 20 November 1877 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁶¹³ Reha Aperahama to Hoani Nahe, 20 November 1877 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁶¹⁴ See Mango Whaiapu and all Ngati Ruinga to E.W. Puckey, 17 November 1877, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁶¹⁵ Memorandum by Hoani Nahe, n.d. [20 November 1877?], Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁶¹⁶ Reha Aperahama to Hoani Nahe, 21 November 1877 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁶¹⁷ Ohinemuri Correspondent, *Thames Advertiser*, 22 November 1877, p. 3.

is of little consequence'. Although it would 'hail with delight' the opening of the district for settlement, there was 'a gulf between the European settler and the Maori landlord' that those attracted by Reha Aperahama's offer would have to consider. Because of the regulations restricting purchase to the Crown, the notification he was 'anxious to find purchasers' was 'of little avail', for the land could not be bought by private individuals, as illustrated by the waste lands board getting 'into hot water' for promising land for the proposed Broomhall settlement before the government had acquired the title.

The Ngatirahiris now appear to be desirous of repudiating the consent given to sell, and the large amounts received by certain owners on account of the sale. They are desirous of becoming their own agents in the matter of sale, instead of allowing the Government to make a large profit out of them, and so the matter rests at present. The object undoubtedly is to prevent the establishment of the Broomhall settlement there, but whether the Thames settlers are any nearer the acquisition of the block is a matter of grave doubt. Certain interested Pakehas, who get a nice income out of Maori land owners and anxious speculators, are no doubt at the bottom of this direct sale or lease announced on behalf of the Ngatirahiri hapu by Aperahama and others.

The offer was not 'a concession on the part of some obstructionist', as another newspaper believed, but should

more properly be regarded as an effort to "raise the wind" [obtain money]⁶¹⁸ on some blocks of land already pledged to the Government by large advances. No doubt those who commissioned Aperahama know what they are about, and it is necessary that Europeans should be warned of the trap into which they may be innocently led by designing Pakeha-Maoris, and others.⁶¹⁹

In the same issue, Johnson reported 'considerable excitement' amongst Pakeha settlers at Ohinemuri and Te Aroha over the attempt to lease several thousand acres by Frederick Strange, a settler from Canterbury,⁶²⁰

⁶¹⁸ Jonathon Green, *The Cassell Dictionary of Slang* (London, 1998), p. 981.

⁶¹⁹ *Thames Advertiser*, 27 November 1877, p. 2.

⁶²⁰ See Travelling Reporter, *Waikato Times*, 27 March 1880, p. 2, 5 May 1881, p. 2; *Te Aroha News*, 29 October 1917, p. 2.

who had settled in the Waitoa district earlier in the year.⁶²¹ Johnson understood that those claiming to own the land had 'taken money from several would-be purchasers', including Mackay. Strange, supported by some owners, was to take possession on 26 November, but as other claimants were reportedly on the ground, Johnson anticipated 'a free fight'.⁶²² In the following month the newspaper was told that a 'valuable block of the Aroha mountain has been offered to a speculator' and was 'in danger of passing into his hands, instead of into the hands of the government in trust for the people requiring small farms'. As this unspecified block was 'undoubtedly the crème of the Aroha district', potential selectors opposed its going into private hands. Ngati Rahiri 'affirmed that the government have no claims upon this block, hence the possibility of its sale' before the government could purchase it.⁶²³

In December, the Auckland press revealed 'some surprise' at Thames that Strange had leased this block, Wairakau, for from £500 to £600. If such 'choice pieces' were cut out, the Aroha land would 'be of little value either to Mr Broomhall or anybody else. The law in respect of native land purchases is in such a condition that it is difficult to say whether Mr Strange will or will not carry out his purchase of Wairakau'.⁶²⁴ 'An Astonished Visitor from the South' responded, insisting that Ngati Rahiri had leased land 'which, to their knowledge, they never sold and never intended to sell' to Mackay.

It should be fully understood that it takes two to make a bargain. If all purchases were carried on in the same straightforward manner as that between Mr Strange and the natives, there would be no native difficulty, such as there is at present, in dealing with native lands. Because Mr Mackay may have paid for a share or small piece of land in the Te Aroha block, no real law or justice can give him or others a title to the whole of the Te Aroha block, or to take what piece he likes and reject what he pleases. What the natives wish is either to sell or keep whatever part of their land they please, whereas the whole is required of them.

Ngati Rahiri offered 'the valuable kauri forest and mountain to Government for goldfields' in payment for Mackay's advances. The writer considered it was 'bad policy to reject so reasonable an offer, and try to force

⁶²¹ *Thames Advertiser*, 14 July 1877, p. 3.

⁶²² Ohinemuri Correspondent, *Thames Advertiser*, 27 November 1877, p. 3.

⁶²³ *Thames Advertiser*, 8 December 1877, p. 2.

⁶²⁴ *Auckland Weekly News*, 8 December 1877, p. 13.

a one-sided bargain on the natives, which has too often caused disturbances'. Broomhall should receive land on the western bank of the river, 'which would be of more value to settlers than mountain or forest'.⁶²⁵

After his death, it was stated that Strange, who was 'on very friendly terms' with Ngati Rahiri, failed to obtain this land 'through the intervention of the government after he had spent £1,700. Of this amount the natives returned £700',⁶²⁶ the rest presumably having been spent already. These figures were exaggerated, for he paid only £600, two years' rental, and arranged to have 6,000 acres surveyed.⁶²⁷ Government intervention certainly occurred, for in mid-November Puckey contacted his under-secretary after hearing that Karauna and others had agreed to let 'certain portions of the Block for a cattle run'. As the remainder of Ngati Rahiri wanted 'to cede right to mine for gold to the Crown', he recommended immediately issuing a proclamation 'forbidding private speculation', for 'no time should be lost in blocking speculators out as it will involve the purchase in further difficulties'.⁶²⁸

Joseph Harris Smallman, a Pakeha Maori living close to Te Aroha,⁶²⁹ was prompted by criticism of Ngati Rahiri's actions to argue that the real problem was Mackay's 'wrongly devised schemes'. If there had been 'less bounce, less brandy, and more open dealing' with 'the real owners', Pakeha would have settled on the land by now. If Mackay 'had taken one fourth of the money he says he has advanced on Te Aroha, and laid it down in the Omahu settlement, with the usual guarantee of a native reserve, he would have obtained every signature' and the 'looming trouble' averted. Mackay claimed that 22 'refractory' Maori were holding up the purchase, but all Ngati Rahiri opposed his paying other hapu for their land.

The mind of the Ngatirahiri is, they are quite willing to open up this country on reasonable terms, but not on the strength of former reckless advances. They are fully alive to the advantages to be derived by the leasing of their lands instead of having them

⁶²⁵ Letter from 'An Astonished Visitor from the South', *New Zealand Herald*, 15 December 1877, Supplement, p. 1; reprinted in *Thames Advertiser*, 17 December 1877, p. 3.

⁶²⁶ *Te Aroha News*, 12 October 1927, Supplement, p. 1.

⁶²⁷ Gerald O'Halloran to James Mackay, 21 November 1877 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁶²⁸ E.W. Puckey to H.T. Clarke, 19 November 1877, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁶²⁹ See paper on his life.

locked up, being perfectly satisfied with the arrangements come to with Mr Frederick Strange over his lease above Wairakau.

Smallman considered both the government and public should thank Strange 'for breaking the crust of Te Aroha, which Mr Mackay, with years of finessing, was unable to accomplish', and wanted 'a competent and disinterested man' to investigate 'what money has really been paid on behalf of the Government and to whom'.⁶³⁰

After spending two days at Omaha in late February 1878, Alexander Brodie,⁶³¹ chairman of the Thames County Council, informed John Sheehan, the new Native Minister, that the rangatira wished to meet with both him and Grey concerning 'their outstanding claims upon' the sale of their lands'. Brodie had 'no doubt' that a visit from Sheehan 'would eventuate in the settlement of these claims, and the acquisition of the freehold' on 'satisfactory terms'.⁶³² In early March, Mackay and land purchase agent John Watkin Preece⁶³³ were jointly appointed to complete the purchase and given them 'a carte blanche' and instructions 'to go to work at once'.⁶³⁴ Later that month, Sheehan, accompanied by a 'posse of assistants, interpreters, commissioners, &c', left for Ohinemuri and Te Aroha to complete purchases.⁶³⁵ Whilst travelling upriver,

matters in connection with the purchase of the Upper Thames lands were earnestly discussed, and the general impression was that the task of acquiring these lands is surrounded with much difficulty, and that the persons engaged in the work should be men possessing energy, ability, tact, perseverance, and firmness.

At Rangiora, Taipari told his uncle, who was the 'chief of the settlement, and one of the Aroha claimants', that Sheehan wanted him to accompany them to Omaha, which he did. The party was warmly welcomed at Omaha.⁶³⁶ After dining,

⁶³⁰ Letter from J.H. Smallman, *Auckland Weekly News*, 29 December 1877, p. 5.

⁶³¹ See *New Zealand Herald*, 16 April 1894, p. 5; *Observer*, 21 April 1894, p. 17.

⁶³² Alexander Brodie to John Sheehan, 25 April 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁶³³ See paper on Maori land in Hauraki.

⁶³⁴ *Thames Advertiser*, 9 March 1878, p. 3.

⁶³⁵ *Thames Advertiser*, 15 March 1878, p. 2.

⁶³⁶ As described in chapter on Maori Te Aroha.

Sheehan then stated he had visited them so as to settle as soon as possible the matters in dispute between them and the Government regarding the Aroha lands. Mr Mackay then spoke, and an exciting korero took place between him and [Aihe] Pepene, other chiefs putting in their say occasionally. The quarrel looked very serious at one time, as each party expressed himself in very uncomplimentary terms towards the other. Peace was afterward restored by some judicious remarks of the Hon. Mr Sheehan; but it appeared that Mr Mackay had the best of the argument, and silenced Mr Pepene. During the discussion, some of the chiefs asked that the Aroha lands should be again adjudicated upon by the Native Lands Court, and sub-divided, so that each section could have their share separately.

Sheehan agreed this was 'one of the best means of dealing with the question, and bringing it to a successful termination for both parties'. After a 'considerable amount of korero', which, as previously, the correspondent did not bother recording, the rangatira asked for time 'to further consider the question'; in consenting, Sheehan withdrew his agreement to a rehearing 'so that he might have time to consider also'. Informal discussions took place during the evening, and on the following morning 'the Aroha people asked for further time to consider'. They praised 'the fair and impartial manner' in which Sheehan had 'placed matters before them, and as a test they would bring a small piece of land before the Court' almost immediately.⁶³⁷ Another report stated that, when Sheehan proposed to discuss business at night,

considerable objection was at first taken, one old gentleman remarking that the Scriptures warned them against a man who came like a thief in the night, and another supplemented this remark by statements that, according to native custom, night birds were always birds of ill omen.

The NATIVE MINISTER replied that if the party that had come to visit them had been Maoris, their objection might have had some force; but the pakeha was different, he traveled by night and by day, and worked regardless of time and Maori custom. He had come a long distance to see them specially, and as he must start for Shortland by 7 o'clock next morning, they must either talk business that night or leave the work undone for an indefinite period.

⁶³⁷ Own Correspondent, 'Visit of the Native Minister to Ohinemuri and Te Aroha', *Thames Advertiser*, 18 March 1878, p. 3.

Thereupon, the objecting party consented, one old gentleman sapiently remarking that the Native Minister was like a tui, he did not settle long anywhere; and unless they took him now while he was roosting upon their particular tree, he might not turn up again until next session. A long and animated discussion took place, lasting until near daylight next morning, when the whole party finally agreed to adopt the Native Minister's proposal to put the land through the Native Lands Court, so as to determine the persons who were entitled to receive the money which the Government was paying for the freehold.⁶³⁸

A correspondent, in evaluating the performance of the officials, considered that Sheehan had proved 'a thorough adept in the Maori language and customs, and made a good impression on the natives, who were pleased with his candour when giving them wholesome advice, some of which was very unpalatable, like most efficacious medicines'. The nature of his advice was not reported, but presumably was that they had no choice but to complete the purchase without delay. Preece 'showed greatly to advantage', despite being 'physically weak'; his 'fire and energy' made him 'able to hold his own with the best Maori diplomatist'. As the son of a missionary who long resided at Thames, he was 'thoroughly acquainted with all the chiefs' and had 'an unsullied reputation for probity and perseverance'. He was assisted 'to a certain extent' by Mackay, about whom no comment was made. Puckey, whose influence was 'very considerable', was assisting to complete the purchase, and as Maori had 'a very high respect' for his position they would not 'be inclined to act unfairly with him or be guilty of sharp practice' but would 'religiously adhere to any agreements' made with him.⁶³⁹

Before Sheehan's arrival, a letter, written by a 'well-known European, of good-standing', disguised as 'You Know Who', had been sent on 13 March to Karauna 'and others' of Ngati Rahiri. Warning that the visiting officials intended 'to take the Aroha land', they were urged to 'be strong to hold the land' and not be 'frightened' by them. 'Do not agree to their word. Do not be afraid of anything they may say. Hold fast! Hold fast!'⁶⁴⁰ The *New Zealand Herald* condemned the writer for being 'far more obstructive to the

⁶³⁸ *Auckland Weekly News*, 23 March 1878, p. 15.

⁶³⁹ Own Correspondent, 'Visit of the Native Minister to Ohinemuri and Te Aroha', *Thames Advertiser*, 18 March 1878, p. 3.

⁶⁴⁰ Letter from 'You Know Who', 13 March 1878, printed in *New Zealand Herald*, 9 April 1878, p. 2, and reprinted in *Thames Advertiser*, 10 April 1878, p. 3.

advancement and prosperity of the country' than Tawhiao's policy. Maori were 'apt enough to take bad advice, especially when it seems at first sight to be to their own advantage, and when it chimes in with the secret inclinations of many of them', but it hoped they would 'resist such interested seductions'.⁶⁴¹ The day after it republished this letter, the *Thames Advertiser* reported that, once officials learnt of its existence, they discovered the author to be 'a gentleman well known in Shortland, who has had a great deal to do with the natives of this and other districts'.⁶⁴² Newspapers also published a letter from a Pakeha Maori, Daniel Tookey,⁶⁴³ admitting he was the amanuensis and providing 'one or two remarks' in explanation. 'The present occupants of Te Aroha entirely ignore the right of any other tribe to the land', and recently 'a feud has broken out amongst the occupants themselves as to the ownership of certain portions'. It happened that 'one of the universally acknowledged claimants', when in Shortland on 13 March, had discovered 'that an unusually strong staff of Government officials was about to proceed on what that individual considered a predatory excursion' and asked Tookey to write the letter informing Ngati Rahiri 'of the intended raid'. Clearly referring to the Broomhall scheme, Tookey wrote that Ngati Rahiri were aware that 'certain individuals residing in England' were to get the land through being 'intimately connected with a well-known Auckland land ring' that could 'work the oracle with the Government'. From 'a Maori point of view', was it surprising that the owners 'should be cautious how they allow their lands to pass out of their jurisdiction', especially as it was 'well known' to them that the government was selling their land 'for about six times the amount they have received?'⁶⁴⁴ The *New Zealand Herald* doubted Tookey's calculations, expecting the purchases would 'probably not return to the public 10s in the pound'. It accused him of advising the owners to commit 'an act of gross dishonesty, which must result in mischief to themselves' and 'certainly greatly impede' settlement.⁶⁴⁵

By March, Mackay had advanced £285 from his private funds. 'Survey arranged for. This block can only be purchased in the same manner as

⁶⁴¹ Editorial, *New Zealand Herald*, 9 April 1878, p. 2.

⁶⁴² *Thames Advertiser*, 11 April 1878, p. 2.

⁶⁴³ See paper on Maori in Hauraki in the nineteenth century.

⁶⁴⁴ Letter from Daniel Tookey, *Thames Advertiser*, 11 April 1878, p. 3; reprinted in *New Zealand Herald*, 13 April 1878, p. 3.

⁶⁴⁵ Editorial, *New Zealand Herald*, 13 April 1878, p. 2.

Ohinemuri, from hapus and individuals. Probable cost 2 shillings per acre'.⁶⁴⁶ 'In April or May', at Taipari's meetinghouse, 'the sale to the Crown of all the Ngati Paoa, Ngati Whanaunga, Ngati Tamatera, and Ngati Maru interests in Te Aroha was finalized'.⁶⁴⁷ By mid-year, £11,627 15s had been paid; 'incidental' payments of £2,761 13s 3d brought the total on what was still an incomplete purchase to £14,389 8s 3d.⁶⁴⁸ One other hapu tried its luck, unsuccessfully: Ngati Raukawa, formerly of Waikato but now at Kapati, near Wellington, applied for some money for what they claimed was their ancestral land.⁶⁴⁹

THE THIRD HEARING: PRELIMINARY CASES

Puckey opposed a rehearing on the technical ground that some interests had been acquired by the Crown,⁶⁵⁰ but was ignored by the politicians. In mid-June, the arrival of some Ngati Rahiri and other hapu enlivened Shortland.

A number of buildings, which have been unlet for some time past, have been rented for offices, and for native quarters, as well as for business purposes, in anticipation of the influx of Maoris, and the expenditure of considerable sums of money when the titles are perfected and the balance of purchase money paid over to the owners.⁶⁵¹

The remainder of Ngati Rahiri arrived three days later.⁶⁵² The judge was John Jermyn Symonds,⁶⁵³ and the assessor was Kamariera

⁶⁴⁶ James Mackay, 'Return No. 3: Blocks Under Negotiation but Price Not Finally Arranged', 24 March 1878, *An Epitome of Official Documents*, ed. Turton, p. 316.

⁶⁴⁷ Waitangi Tribunal, *The Hauraki Claim*, vol. 2, p. 469.

⁶⁴⁸ 'Land Purchased and Leased from Natives in the North Island', *AJHR*, 1878, G-4, p. 10.

⁶⁴⁹ Paratene Hihitaua to John Sheehan, 23 April 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W; for confirmation of their living at Kapati, see Native Lands Court, *Auckland Weekly News*, 13 July 1878, p. 16.

⁶⁵⁰ F.D. Fenton to John Sheehan, 1 April 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W; Native Land Act 1873, Section 37, in *Statutes of New Zealand* (Wellington, 1873), pp. 243-244.

⁶⁵¹ *Thames Advertiser*, 15 June 1878, p. 3.

⁶⁵² *Thames Advertiser*, 18 June 1878, p. 3.

Wharepapa.⁶⁵⁴ After other cases were considered, on 22 June the cases began for the adjacent blocks of Te Aratiatia, of 1,756 acres, and Waiharakeke West, of 1,487 acres, both upriver from the Aroha block.⁶⁵⁵ In his evidence, Reha Aperahama and others gave details of having driven Alley's cattle off Waiharakeke.⁶⁵⁶ Karauna was the first witness on behalf of Ngati Tumutumu, claiming both through ancestry and through having lived there as a child and, much later, driving Alley's cattle off.⁶⁵⁷ After the battle of Taumatawiwi other members of his hapu lived on this land.⁶⁵⁸ Aperahama Te Reiroa, father of Reha Aperahama and Aihe Pepene, and a member of Ngati Rahiri then living at Te Aroha, also claimed through ancestry, but said members of Ngati Tumutumu who were descended from Tangata could claim a right to this land.⁶⁵⁹ Mokena had just begun to give evidence when Ngati Tumutumu withdrew their case, as Ngati Hineranga 'had admitted a portion of them', namely Ngati Rahiri, 'into their Claim'.⁶⁶⁰ Tinipoaka, in opening the case for Ngati Tamatera, stated that when Waikato were defeated by the government it was decided that 'the remnant' should be permitted to occupy 'the land from Wairakau to Waiharakeke'. The 'Hauhau portion' of Ngati Tamatera, which had participated in the Waikato War, afterwards 'brought back' Ngati Haua fighters 'and settled them on Te Aroha and adjacent lands'. Ngati Haua had settled at Te Aroha instead of 'remaining at Matamata because they were afraid of the soldiers who had already got as far as Cambridge'.⁶⁶¹

After arguments between other hapu, the land was granted to Ngati Hinerangi and those Ngati Rahiri and Ngati Haua they chose to admit because they were 'connected with them by ancestry or marriage'.⁶⁶² Five

⁶⁵³ See *A Dictionary of New Zealand Biography: vol. 2*, ed. Scholefield (Wellington, 1940), pp. 355-356.

⁶⁵⁴ See Native Land Court, *Thames Advertiser*, 26 August 1878, p. 3; *Auckland Star*, 6 November 1920, p. 17.

⁶⁵⁵ For their acreage, see Maori Land Court, Hauraki Minute Book no. 10, p. 319.

⁶⁵⁶ Maori Land Court, Hauraki Minute Book no. 10, pp. 241-243, 248, 251, 253, 258, 273-274.

⁶⁵⁷ Maori Land Court, Hauraki Minute Book no. 10, pp. 269-270.

⁶⁵⁸ Maori Land Court, Hauraki Minute Book no. 10, p. 271.

⁶⁵⁹ Maori Land Court, Hauraki Minute Book no. 10, pp. 271-272.

⁶⁶⁰ Maori Land Court, Hauraki Minute Book no. 10, p. 276.

⁶⁶¹ Maori Land Court, Hauraki Minute Book no. 10, p. 280.

⁶⁶² Maori Land Court, Hauraki Minute Book no. 10, pp. 280-305, 316-317.

Ngati Rahiri rangatira were included as owners of both blocks through belonging to other hapu.⁶⁶³ The listing of the 26 owners produced 'great discussion' which 'ultimately became a perfect Babel of tongues, as a great number of natives, who had been excluded, claimed to have their names inserted'.⁶⁶⁴

Next, the court considered the adjacent Waiharakeke East block, of 8,470 acres.⁶⁶⁵ This hearing was prolonged because Ngati Rahiri wished to give evidence.⁶⁶⁶ At the start, the clerk noted 'Natives very excited', and they were warned that 'if they were not more orderly tomorrow the Court would be adjourned'.⁶⁶⁷ Their objection that the assessor was 'closely connected by relationship' with Ngati Haua was dismissed by Symonds.⁶⁶⁸ When his decision in this case was later challenged, Symonds disproved the claim that Ngati Haua had been favoured and stated that the assessor had no blood relationship with it.⁶⁶⁹

Parata Te Mapu, the first Ngati Tumutumu to give evidence, claimed an interest through ancestry and because his ancestors had lived there before Taumatawiwi.⁶⁷⁰ Ngakuru of Ngati Rahiri based his claim on his parents having cultivated it. He had helped to drive Ngati Haua cattle off and had 'horses cattle and pigs running on this land at the present time both sides of the line', meaning part of the boundary between the Hauraki and Waikato tribes. Mokena had arranged for the survey and 'laid this line off himself; none of the people went with him'.⁶⁷¹ As usual, opponents denied that Ngati Rahiri had cultivated the land.⁶⁷²

Mokena gave details of the conflicts between Marutuahu and Ngati Haua after Taumatawiwi.⁶⁷³ He had 'laid off the subdivisional boundary' at the two previous hearings: 'I laid this boundary off as dividing the lands of

⁶⁶³ Maori Land Court, Hauraki Minute Book no. 10, p. 319.

⁶⁶⁴ Native Lands Court, *Auckland Weekly News*, 13 July 1878, p. 16.

⁶⁶⁵ Maori Land Court, Hauraki Minute Book no. 10, p. 415.

⁶⁶⁶ *Thames Advertiser*, 8 July 1878, p. 3.

⁶⁶⁷ Maori Land Court, Hauraki Minute Book no. 10, p. 323.

⁶⁶⁸ Native Lands Court, *Auckland Weekly News*, 13 July 1878, p. 16.

⁶⁶⁹ Memorandum of J.J. Symonds, 6 November 1878, Maori Land Court, Memoranda Book 1867-1879, p. 235, BAIE 4307/1a, ANZ-A.

⁶⁷⁰ Maori Land Court, Hauraki Minute Book no. 10, pp. 355-356.

⁶⁷¹ Maori Land Court, Hauraki Minute Book no. 10, p. 357.

⁶⁷² For example, Maori Land Court, Hauraki Minute Book no. 10, p. 358.

⁶⁷³ Maori Land Court, Hauraki Minute Book no. 10, pp. 360-362.

my different ancestors – the northern portion being Te Ruinga's the southern portion Tokotoko's & Tangata's'.⁶⁷⁴ He had been at 'the meeting at Te Tuhi. We proposed then to turn your cattle off – but the Hauhaus said they would do it'.

Next, Timi Te Rua, a Ngati Rahiri living at Te Aroha, objected to all Ngati Haua being made owners 'but not to those who are related to us, that is those who are related to Te Waharoa', a descendant of Tokotoko. After the rehearing of the case, Ngati Haua 'were turned off and not one of them has lived there since'. When they put Alley's cattle on the land, Ngati Rahiri and Ngati Hinerangi 'drove them off'.⁶⁷⁵ He 'was not in the Order of Court for Mangawhero because N'hinerangi told us not to give evidence and if the Judgment was in their favor they would put our names in. Afterwards they refused to do it although the Judgment was in their favor'.⁶⁷⁶ The last witness, Mokena's son Akuhata, confirmed that his father laid off the northern boundary.⁶⁷⁷

The judgment, after noting that the evidence was 'very similar' to that in the previous case, granted the land to Ngati Hinerangi plus those Ngati Haua related to Te Waharoa and Wiremu Tamihana. 'As regards Ngatirahiri it is to be presumed that the boundary line laid off between the Waikato Tribes and Marutuahu would exclude them as belonging to the latter, but if Ngatihinerangi wish to admit such as are related to them the Court will not object'.⁶⁷⁸ When the list of owners was produced, some days later, 23 Ngati Rahiri were included.⁶⁷⁹

REHEARING THE AROHA CASE

With these and other small cases out of the way, the Aroha hearing began on 11 July. Before it commenced, a steamer went to Te Aroha 'under charter to the natives, who go to inspect the boundaries of the block, and compare the same with the plans' held by the court.⁶⁸⁰ The *Thames Advertiser* expected the case to take 'a considerable time', as there were 'a

⁶⁷⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 363.

⁶⁷⁵ Maori Land Court, Hauraki Minute Book no. 10, pp. 365-366.

⁶⁷⁶ Maori Land Court, Hauraki Minute Book no. 10, p. 366.

⁶⁷⁷ Maori Land Court, Hauraki Minute Book no. 10, p. 366.

⁶⁷⁸ Maori Land Court, Hauraki Minute Book no. 10, p. 367.

⁶⁷⁹ Maori Land Court, Hauraki Minute Book no. 10, pp. 413-414.

⁶⁸⁰ *Thames Advertiser*, 9 July 1878, pp. 2, 3.

vast army of witnesses' and those 'contaminated' by private speculators would 'prove very troublesome'.⁶⁸¹ When Taipari and Hoani Nahe announced that they appeared for Ngati Rahiri they took Preece 'by surprise' and 'seemed to place the matter in an unexpected light'. When Hohepa Kapene opposed Nahe being an advocate because he was a member of the government, he responded that 'he wished to do so, and the Court had no power to interfere in the matter'.⁶⁸² The *Thames Advertiser* complained about these 'unexpected' difficulties, for Nahe was opposing his own government and Taipari was paid a 'handsome stipend in order to assist the Government to maintain good government and good manners amongst the Maoris of this district'.⁶⁸³ It later argued that they should resign their government posts.⁶⁸⁴ In parliament, Sheehan later defended Nahe because it was 'absurd and monstrous to suppose' that he should 'submit to the confiscation of his property'; and he had done 'everything he could to assist me in getting the land through the Court'.⁶⁸⁵

Preece, presenting the case for Marutuahu and the Crown, produced the deed signed by Ngati Haua ceding their interest, which proved that the over-lapping they claimed was 'void, as the Ngatihaua had now no interest in that portion of the block'. Two Ngati Haua rangatira 'strongly objected to that interpretation of the deed', claiming that the £1,475 paid by McLean was given 'in settlement of their claim to the Aroha block proper only'. After Preece pointed out that the land they had ceded extended beyond the Aroha Block to the Waitoa River, the court decided that Ngati Haua had 'no claim to the Aroha block as comprised within the boundaries shown in the plan produced'.⁶⁸⁶ As there appeared to be two plans and 'the matter was not very clear, after some discussion the Court adjourned the case' until surveyors could clarify the matter.⁶⁸⁷

The first witness was Hoera Te Whareponga, a Ngati Paoa rangatira, who had a claim through belonging to Marutuahu but 'could not describe

⁶⁸¹ *Thames Advertiser*, 10 July 1878, p. 3.

⁶⁸² Native Lands Court, *Auckland Weekly News*, 13 July 1878, p. 16.

⁶⁸³ *Thames Advertiser*, 9 July 1878, p. 2.

⁶⁸⁴ *Thames Advertiser*, 12 July 1878, p. 2.

⁶⁸⁵ Speech by John Sheehan, *New Zealand Parliamentary Debates*, vol. 30, 26 October 1878, p. 1133.

⁶⁸⁶ Maori Land Court, Hauraki Minute Book no. 10, p. 375; Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

⁶⁸⁷ Native Lands Court, *Auckland Weekly News*, 13 July 1878, p. 16.

the boundaries, as he had never been over the whole of it'.⁶⁸⁸ Ngati Paoa had sold its interest at a Thames meeting. 'I do not know what the exact sum was. The money was paid to the tribe by Mr Mackay, and we were quite aware that we ceded the whole of our interest for this money'.⁶⁸⁹ After his evidence, Preece and the interpreter explained that the case for the claimants was to establish 'the claim of the Government to the shares originally owned by Ngatipaoa, Ngatitamatera, Ngatimaru, and Ngatiwhanaunga. If any persons wished to dispute the right of those tribes to sell the land, their names would be taken down, and their cases heard in due course'. Aihe Pepene, who conducted the case of Ngati Tumutumu '(including Ngatirahiri)', immediately disputed their right to sell because 'the land was not theirs to sell'. After Taipari's announcement that he appeared on behalf of Ngati Kopirimau, another hapu of Ngati Tumutumu, caused 'some discussion' it was agreed that 'to save time' Pepene would conduct the case for all hapu of Ngati Tumutumu.⁶⁹⁰

Three other Ngati Paoa leaders confirmed that they had sold their interests for £1,220; one 'had no part in the selling of it being a Hauhau, but I agreed to the sale'.⁶⁹¹ Ngati Tamatera leaders then gave evidence that they had sold their interests for £1,188, part of which was received 'openly, in the presence of all Marutuahu, at a meeting 'at Pukerahui (Taipari's place)'. Riria Karipi, sister of the deceased rangatira Paora Te Putu, stated that 'all the tribes, including Ngatitumutumu and others, were represented at the meeting at Pukerahui. No objection was then raised as to the right of the Ngatitamatera to sell their share'.⁶⁹² The 'paramount chief' of Ngati Whanaunga then stated that his tribe had sold its interest at this meeting. 'Had a great dispute previously with the Ngatitumutumu and Ngatikopirimau. He then took the money. There were several payments, and the entries in Mr Preece's book, showing a total of £1,010, were probably correct'.⁶⁹³

⁶⁸⁸ Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

⁶⁸⁹ Maori Land Court, Hauraki Minute Book no. 10, p. 376.

⁶⁹⁰ Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

⁶⁹¹ Maori Land Court, Hauraki Minute Book no. 10, p. 377.

⁶⁹² Maori Land Court, Hauraki Minute Book no. 10, p. 378; Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

⁶⁹³ Maori Land Court, Hauraki Minute Book no. 10, p. 379; Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

Taipari's father, Hoterene, was the first to give evidence for Ngati Maru. He confirmed that, at the meeting at Pukerahui, Ngati Maru and others had made 'a complete and full cession of our interest', but added that Ngati Rahiri had 'objected'.⁶⁹⁴

Riwai Te Kiore made a lengthy statement as to what had been done in connection with the Aroha block from the time it was first put through the Court. – Mr Preece wanted him to speak as to certain transactions, but he wasn't to be cut short, and said that he "hadn't come to that yet." He was allowed to tell his tale his own way, as, when pressed to speak as to what took place at the meeting at Pukerahui, he always replied, "Taihoa ['wait a while'],⁶⁹⁵ I haven't come to that yet," which caused considerable amusement. He went into the question minutely, and said that, although he was a party to the taking of the money, he did not know that it was on account of the Aroha block. Had he known that, he would not have taken the money. Thought that it was on account of a block on the boundary of the Aroha, near Waitoa, called Te Puke-a-Manu. – Waata Tipa said that that land was his, and that he had sold it, so that Riwai could not have supposed any such thing. – In reply to the Court, Riwai said that the meeting at Pukerahui was about the Aroha block. Ngatimaru included Ngatirahiri. The tribe took £500 on account of striking the boundary shown on the plan as Te Puke-a-Manu.⁶⁹⁶

Tamati Waka Te Puhi, of Ngati Maru, after stating that some of his tribe had an interest and some did not, confirmed that their interest had been sold at the meeting at Pukerahui. 'Riwai Te Kiore was a principal in the transaction, and took the money. It was well known that the payment was made on account of the Aroha block. He now heard for the first time that any person supposed that it was on account of Te Puke-a-Manu'. After his evidence, which concluded the government's case, Preece stated that he had 'included in his claim any interests held by the Ngatitumutumu and Ngatikopirumau by virtue of payments made. He would not go further into the question at that stage, but would cross-examine those natives when they came forward as witnesses'.⁶⁹⁷

⁶⁹⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 379.

⁶⁹⁵ Ryan, p. 40.

⁶⁹⁶ Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

⁶⁹⁷ Maori Land Court, Hauraki Minute Book no. 10, pp. 380-381; Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

Hoani Nahe, the first of 'the opposition' to give evidence, insisted that the land did not belong to his ancestor Marutuahu. 'Was positive about that, but could not say what ancestor really owned it'. He had been told that it had belonged to Te Ruinga, an ancestor of Ngati Tumutumu. 'Neither Marutuahu nor his descendants ever took the Aroha lands by conquest'. At which point Preece 'objected that it would not be right to allow the question of the ownership of the Aroha block to be opened up, as that had already been decided' in a previous judgment. 'If the opposition wished to prove that they were entitled to a larger share in the block than those who had sold to the Government, that would be fair, but they must not attempt to oust those in whose favour a judgment of the Court had been given'. Pepene responded that 'he did not wish to upset Marutuahu, but he intended to prove that the four tribes now called Marutuahu were not really so, and were not the owners of the block'.⁶⁹⁸ Nahe, who had been present at the meeting at Pukerahui, then named eight rangatira plus 'the whole of N'Rahiri' as objecting to the sale. 'I myself objected to receiving money from the Government', not being a Ngati Rahiri. 'If the Marutuahu had an honest heart they would not claim on this land – I strongly asserted there that I and my hapu had no claim to this land – had it belonged to Marutuahu I should have very large claims on it'.⁶⁹⁹ Those who sold the land at Pukerahui 'were not the owners of it according to Native Custom. I reasoned with myself that if the people had been Ministers they would not have claimed the land, I mean Ministers of Gospel not of the Crown. I never received any money myself'.⁷⁰⁰

According to an interjection recorded by the press but not by the clerk, Taipari claimed that 'the original judgment had been very indistinct', producing 'the printed report of a Committee of the House of Representatives which coincided with his view of it'. As Symonds, after reading the document, said this hearing was to define 'the rights of the various parties interested in the original judgment',⁷⁰¹ Taipari must have been referring to the decision made after the 1871 re-hearing.

Karauna, the first to give evidence for Ngati Tumutumu, stated that he was one of the three who had given evidence in 1871 who had wanted the land to be awarded to Marutuahu. 'I did this because I alone am descended

⁶⁹⁸ Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

⁶⁹⁹ Maori Land Court, Hauraki Minute Book no. 10, pp. 382-383.

⁷⁰⁰ Maori Land Court, Hauraki Minute Book no. 10, p. 384.

⁷⁰¹ Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

from Marutuahu', whereas Ngati Tamatera, Ngati Whanaunga, and Ngati Paoa, all descendants of Marutuahu's children, did not inherit his mana, which 'descended to the children of Te Ngaki of whom I am a descendant'.⁷⁰² At the meeting at Pukerahui, he was one of the 'many' who objected to paying money on account of Te Aroha; he claimed he 'had not received any money on account of the block, but had received money on account of lands in the Hauraki district'. After returning he had built a pa at Te Aroha 'to hold it against them'. They had shot at Ngati Tamatera and others 'to show that they did not permit those parties to pass unchallenged when intruding on their land'. Their claim to occupy the land was based on their descent from Te Ruinga; none of the other tribes claiming the land lived there.⁷⁰³

When cross-examined 'at some length' about his 1871 evidence, Karauna contradicted the records of that hearing, which were produced. Preece suggested that he should be cautioned 'to be more careful', and Symonds said that 'such statements would cause the Court to look with suspicion on other evidence given by the witness'. Karauna explained that Ngati Rahiri did not set up a separate case in 1871 because the main question was the battle of Taumatawiwi and Ngati Haua's claim to the land through conquest. He alleged that Ngati Rahiri and Ngati Kopirimau had wanted to set up their own cases but were over-ruled by Mackay, 'who was angry with them for attempting to split up the case. (The Court cautioned the witness that his former statements, as recorded, would stand against the statements now made)'. He denied receiving any money from Mackay on account of this land.⁷⁰⁴ On the following day he insisted that Marutuahu had not given evidence in 1871 'respecting Te Aroha but the battle of Taumatawiwi'. He named 18 hapu (not including Ngati Rahiri or Ngati Tumutumu) as having 'an interest' in the block. Ngati Tumutumu was 'the great name under which all these hapus are included – There are three great divisions under which all these hapus are included, N'tumutumu, N'hue, & N'Kopirimau – N'Rahiri is a new name and included in N'tumutumu'.⁷⁰⁵

⁷⁰² Maori Land Court, Hauraki Minute Book no. 10, p. 384.

⁷⁰³ Maori Land Court, Hauraki Minute Book no. 10, p. 385; Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

⁷⁰⁴ Maori Land Court, Hauraki Minute Book no. 10, pp. 315-317; Native Lands Court, *Thames Advertiser*, 12 July 1878, p. 3.

⁷⁰⁵ Maori Land Court, Hauraki Minute Book no. 10, pp. 388-389.

The next witness, Reha Aperahama, of Ngati Rahiri, claimed that the centre of the block, the only portion considered in 1869, belonged to Ngati Kopirimaui. He claimed under two ancestors: Te Ruinga for the southern portion and Hue for the northern.⁷⁰⁶ At this point, clearly because of confusion caused by the proliferation of hapu names, 'it was arranged' that all hapu claiming ownership of portions of the block 'should be known under the name of Ngati Rahiri.'⁷⁰⁷ Reha confirmed that it was at Karauna's suggestion that the grant was made to Marutuahu in 1871. At this hearing, Ngati Tumutumu 'spoke of their claims to the land and their living on it and their claim through ancestry. The other tribes only spoke of the battle of Taumatawiwi', although some admitted that Ngati Tumutumu had lived on it. 'None of the tribes made any claim of having lived there'. The mana of Marutuahu was now with Ngati Maru but only those of the latter 'connected with' Ngati Tumutumu had any claims to Te Aroha; no other Marutuahu hapu had claims.⁷⁰⁸ He denied having heard evidence about other hapu claiming to have caught eels there,⁷⁰⁹ and also denied receiving sums on account for it. His evidence concluded with the claim 'there was no confederation of tribes called Marutuahu', for 'Marutuahu proper' was Ngati Maru. 'We believed that when Judgement was given in favor of Marutuahu it meant simply N'Maru'.⁷¹⁰

Karauna, recalled by Pepene, confirmed that when he applied for the grant in 1871 it was for Ngati Maru not Marutuahu.⁷¹¹

Pirika Te Ruipoto, a Ngati Tumutumu living at Te Aroha, agreed that the mana of Marutuahu rested with Ngati Maru 'because they have taken the name of their ancestor'. When the block was surveyed by Ngati Tumutumu 'the people of Hauraki' made no objection.⁷¹² He then gave evidence about the meeting at Pukerahu:

We did not know that the meeting was to be about Te Aroha but when we came we found it was about Te Aroha – What the tribe said was that they should like money for Te Aroha. Some of N'tumutumu objected, they would not listen to us. It was Mr

⁷⁰⁶ Maori Land Court, Hauraki Minute Book no. 10, pp. 389-390.

⁷⁰⁷ Maori Land Court, Hauraki Minute Book no. 10, p. 390.

⁷⁰⁸ Maori Land Court, Hauraki Minute Book no. 10, pp. 391-392.

⁷⁰⁹ Maori Land Court, Hauraki Minute Book no. 10, p. 393.

⁷¹⁰ Maori Land Court, Hauraki Minute Book no. 10, p. 394.

⁷¹¹ Maori Land Court, Hauraki Minute Book no. 10, pp. 394-395.

⁷¹² Maori Land Court, Hauraki Minute Book no. 10, p. 396.

Mackay who strengthened [them] in their wish to take the money for Te Aroha, some of the tribes were afraid but Mr Mackay continued to persuade them. They were afraid because they had no interest in the block, they admitted they had no interest. Mr Mackay induced them to go into the house to see the money and when they saw the money they took it. In saying this I refer to N'tamatera, N'whanaunga, N'Paoa, N'Koe, & The Whakatohea, the latter however did not take any money. Some of these tribes said they had interest and some said they had not. We are not willing that this money should be charged against Te Aroha. This money was as if Mr Mackay had thrown it out on the road, he did not wait to see if they had any interest in the land. Had Mr Mackay [spoken] to us people who owned the Aroha we should have told him who were the owners and who were not – Mr Mackay thus misled us; he sent for us that we might quietly talk about it, he distributed the money amongst the people and said nothing to us.

Only Ngati Maru should have received any money if Ngati Tumutumu had.⁷¹³ The latter attended this meeting for three days before returning 'to our homes being angry with Mr Mackay'.⁷¹⁴ He disagreed with Haora Tipa's 1871 evidence about catching eels at Te Aroha because these belonged to Ngati Tumutumu, but had not denied Haora's statement when giving evidence 'because he proposed outside that we should become one as against N'haua'; Ngati Tumutumu agreed to his suggestion 'in order that we might be strong to prove our case to oust N'haua'.⁷¹⁵ He also claimed that, had Ngati Tumutumu been left to fight Ngati Haua 'after Taumatawiwi by ourselves alone, we should have been able to hold our own against them. I say this because on many instances N'tumutumu unaided by others have defeated neighbouring tribes and taken paha from them when they had deaths to avenge'.⁷¹⁶

Ngapari Whaiapu of Ngati Tumutumu, who also lived at Te Aroha, stated that he, Karauna, Parata Te Mapu, and 'others' suggested that the block be granted to Marutuahu.⁷¹⁷ At the meeting at Pukerahui, 'Hoani Nahe said that he and N'Rahiri objected to money being paid' on Te Aroha;

⁷¹³ Maori Land Court, Hauraki Minute Book no. 10, pp. 396-397.

⁷¹⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 398.

⁷¹⁵ Maori Land Court, Hauraki Minute Book no. 10, pp. 399-400.

⁷¹⁶ Maori Land Court, Hauraki Minute Book no. 10, p. 400.

⁷¹⁷ Maori Land Court, Hauraki Minute Book no. 10, p. 403.

although ‘a great number’ of Ngati Maru agreed to sell this land, some were opposed.⁷¹⁸

Taipari, giving evidence as a member of Ngati Kopirimau, said that Ngati Tumutumu had lived on the land permanently up to the battle of Taumatawiwi.

They had the “mana” of all that was growing on the land – Flax, Timber &c – If any people wished to make any use of the flax on the land they would make application to Hou. [If] the Waikato wished to have trees to make canoes out of they would go to Hou. If anyone took upon themselves to cut flax or fell trees for Canoes without permission they would be “muru” [plundered]⁷¹⁹ – they would have the flax taken from them and the trees broken up – and from the time of Taumatawiwi to the Waikato War they continued to live there. When their people died they had them buried there. After the Waikato war up to the present time they have continued to reside there. When the tribes returned from Taumatawiwi to Hauraki, some of the N’tumutumu stayed there and some came here. The old men of N’tumutumu that remained there on their return from Taumatawiwi are Parakauere, Manuhare, & Turanga. The portion of N’tumutumu that came to Hauraki afterwards returned to Hauraki. No one interfered with them. They have lived constantly there and have never been driven off by anyone. No one interfered with their making eel weirs or catching eels. If any other people wished to cultivate there they would ask permission of N’tumutumu. People would be allowed to squat on the land provided they did not make an excuse for claiming it – In that case they would be turned off – That is native Custom.⁷²⁰

He had been told that Te Waharoa and Tiwha had sought permission from Ngati Tumutumu to work on the land. After Taumatawiwi, when Ngati Haua went there without permission, they were turned off.⁷²¹ After victory in the rehearing, Ngati Tumutumu had ‘asked their agents to wait until they should decide who were to go into the Order of Court and then the name of Marutuahu was given in for the Order of Court. It was left for N’tumutumu & N’Maru to settle who should go into the Order’.⁷²²

⁷¹⁸ Maori Land Court, Hauraki Minute Book no. 10, p. 404.

⁷¹⁹ Ryan, p. 27.

⁷²⁰ Maori Land Court, Hauraki Minute Book no. 10, pp. 405-406.

⁷²¹ Maori Land Court, Hauraki Minute Book no. 10, pp. 411-412.

⁷²² Maori Land Court, Hauraki Minute Book no. 10, p. 407.

Under cross-examination, Taipari stated that ‘as a Government Servant’ and at McLean’s request he had called the meeting at Pukerahui, and undermined one of Ngati Tumutumu’s claims by stating that participants were informed it would ‘be held about Te Aroha’.⁷²³ At this meeting, Mackay ‘applied to’ Ngati Tumutumu to sell the block and stated that ‘he would pay all the tribes for their interest in the land. This was before Mr Mackay heard any objection made by N’tumutumu’.

N’tumutumu then said pay your money to these various tribes on account of their own land and not on Te Aroha, Te Aroha shall never go for these monies. Mr Mackay persisted in paying this money, for several days this dispute went on between N’tumutumu and Mr Mackay – N’tumutumu then said although you pay this money we will never let you have Te Aroha, don’t pay your money until these people have been up to Te Aroha and pointed out their respective portions of it.... N’tumutumu then told Mr Mackay he was not to pay money after they had left. They then returned to Te Aroha and when they got there they built a Pah from which to welcome the people who were to go up there to point out their portions – After they had left Mr Mackay paid money to the people who were remaining there.

When Mackay paid the others, Taipari ‘made an objection’ and told Ngati Whanaunga they had received money for other lands. ‘They had been contending with Mr Mackay trying to induce him to raise the price. I told them they did not contend for money in this way for their own land’. When Ngati Maru received their money he repeated this point and reminded them that Ngati Tumutumu had asked them to point out their portions. After the money was paid, Taipari and Puckey went to Te Aroha ‘to prevent disturbance because N’tumutumu had built a pah. N’tumutumu would not listen to us, they told us to return, and to charge the moneys that had been given to the people on their own lands and then we might return’. Asked why he had not taken ‘the people up with you’ to ‘point out their several pieces’, he responded: ‘They sent us back, and we returned’. He argued that at the rehearing Ngati Tumutumu and Ngati Maru alone had wrested Te Aroha from Ngati Haua; ‘the other tribes of Hauraki’ went to it ‘of their own free will, they were not invited and asked to support us’.⁷²⁴

⁷²³ Maori Land Court, Hauraki Minute Book no. 10, pp. 412-413.

⁷²⁴ Maori Land Court, Hauraki Minute Book no. 10, pp. 408-409, 412.

Taipari, cross-examined by Preece ‘at considerable length’ about his 1871 evidence,⁷²⁵ admitted having asked Ngati Whanaunga why they did not receive money when Mackay paid hapu for Te Aroha but denied assisting Mackay to pay for this land. When Preece was appointed Taipari had told him that, although he had been Mackay’s assistant and that they would now work together, he would not take ‘the £1,000 offered me to smooth away the difficulties respecting N’tumutumu’. This money had been offered about ‘two years or so’ after the rehearing, ‘on various occasions’, by McLean and Mackay.⁷²⁶

Mokena gave details of battles before and after Taumatawiwi, and confirmed that only Ngati Tumutumu lived at Te Aroha.⁷²⁷ Cross-examined by Pepene, he also confirmed that ‘the name of Marutuahu now rests with N’Maru. I have never heard from my childhood up that the other three tribes were called by the name of Marutuahu’, and Ngati Paoa certainly were not descended from him.⁷²⁸

Parata Te Mapu, a Ngati Tumutumu who lived at Parawai, confirmed that after the rehearing Karauna had suggested that the land be granted to Marutuahu, by which he meant Ngati Maru, and that Ngati Maru and Ngati Tumutumu had been the ‘most strenuous at the rehearing’.⁷²⁹ At the meeting at Pukerahui, according to the court record of his evidence ‘the whole of N’tumutumu’ as well as seven named leaders objected to the land being sold.⁷³⁰ A reporter recorded him saying that ‘nearly the whole of the Ngatitumutumu objected, and would not listen to Mackay’s proposals. Some of the tribes were anxious to take the money, because they had no interest in the block’.⁷³¹ After stating that only Ngati Maru had an interest because they were the only descendants of Marutuahu, he admitted, under cross-examination, that if he had included the other three tribes in his evidence at the rehearing

⁷²⁵ Native Lands Court, *Thames Advertiser*, 15 July 1878, p. 3; Maori Land Court, Hauraki Minute Book no. 10, pp. 410-411.

⁷²⁶ Maori Land Court, Hauraki Minute Book no. 10, p. 411.

⁷²⁷ Maori Land Court, Hauraki Minute Book no. 10, pp. 423-426.

⁷²⁸ Maori Land Court, Hauraki Minute Book no. 10, pp. 424-425.

⁷²⁹ Maori Land Court, Hauraki Minute Book no. 10, p. 428.

⁷³⁰ Maori Land Court, Hauraki Minute Book no. 10, p. 429.

⁷³¹ Native Lands Court, *Thames Advertiser*, 17 July 1878, p. 3.

I cannot contradict it here. I do not remember our receiving any letter from Te Moananui respecting Te Aroha before we went to the Court at Auckland. I do not remember ever replying to it (letter produced). I believe the signature to be mine. I have now for the first time heard of this letter. I never wrote this letter – neither did I sign it nor authorise any one to do so. I know nothing whatever about its [being] written or sent.⁷³²

Wiremu Turipona, an Anglican minister, deposed that he had written this letter ‘at the suggestion of the Runanga at Hauraki’. Parata had been present when he wrote it and was ‘aware’ that his name was used, as was determined by the runanga. ‘The letter was written because it had been decided that if the land was again awarded to N’haua that a fight should take place over it’.⁷³³ According to the court records, Turipona admitted having received from Mackay goods valued at £75 which were charged against his interest in the Aroha ‘with my consent’; a newspaper reported Parata as the recipient.⁷³⁴ When newspapers stated that the letter suggested killing Ngati Haua if they were awarded the land, Turipona protested that he had been ‘grossly misrepresented’, for it had referred to occupying the block, not to attacking Ngati Haua.⁷³⁵

Taterei Kaiawa, of Ngati Whanaunga and Ngati Maru, gave evidence described by a reporter as ‘rather curious’,⁷³⁶ stating he had received money for Te Aroha although ‘I have no claim on it’. Mackay had told him ‘to take money as I came from Marutuahu although I had no claim on the land. Of all the tribes of Hauraki this land belongs to N’Tumutumu alone’.⁷³⁷ At the meeting at Pukerahui, the objections of Ngati Tumutumu were ignored:

On receiving the money I signed a document conveying the land to the Government. I look upon this as theft on the part of myself and Mr Mackay because I had no claim to the land. We look upon ourselves as having robbed the money from the Government. I received £200 on account of Te Aroha. Mr Mackay did not say it

⁷³² Maori Land Court, Hauraki Minute Book no. 10, p. 429.

⁷³³ Maori Land Court, Hauraki Minute Book no. 10, pp. 429-430.

⁷³⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 430; Native Lands Court, *Thames Advertiser*, 17 July 1878, p. 3.

⁷³⁵ Native Lands Court, *Thames Advertiser*, 17 July 1878, p. 3; ‘Thames Lands Court’ (letter and editorial comment), *New Zealand Herald*, 7 August 1878, p. 3.

⁷³⁶ *Auckland Weekly News*, 27 July 1878, p. 18.

⁷³⁷ Maori Land Court, Hauraki Minute Book no. 10, p. 431.

was a Gift but on account of Te Aroha. I am not willing that this money should be charged against any of my other lands, let Mr Mackay repay it. All the people took it, why should I refuse? Although Mr Mackay were present I should still say that he urged me to take the money. When the money was ready to be paid Mr Mackay sent for us from Pukerahui to his office and paid us the money there. When we went into his office, I said let me have a great deal of money, £1,000. I said this on account of the crime I was committing, the crime being my receiving money on which I had no claim. I still expect this money to be charged against Te Aroha.⁷³⁸

In a newspaper version of his testimony, Taterei was quoted as saying that 'Mackay knew that he had no claim. Those who received the money considered that they had robbed the Government. Witness said he received £200 as his share'. He had asked for £1,000 'as he thought that he might as well commit a crime on a large scale as on a small one, as he knew that he was robbing the Government all the while'. Preece 'said that as the witness had made such an exhibition of himself he would not question him further'. Taterei 'further said that he had committed this crime because the temptation was so great'.⁷³⁹

Keepa Te Wharau, a Ngati Tumutumu living at Te Aroha, explained the ancestry of the claimants and described disagreements with Ngati Haua over boundaries.⁷⁴⁰ At the Pukerahui meeting 'I was one of those who objected to the sale'. He admitted taking money 'long before this meeting on account of Te Aroha', telling Mackay 'to charge it against the swamp on the Western side, it is inside of the block'. He claimed not to know how much he had received because 'part of it was received in Spirits', Mackay giving him 'Orders in Public Houses'. Denying having received money on several specified dates because 'these things used to be done when I was drunk', he claimed all his money was to be charged to another block.⁷⁴¹ Preece announced that he would produce the vouchers to prove he had received the amounts stated.⁷⁴² Cross-examined by Symonds, Keepa admitted objecting

⁷³⁸ Maori Land Court, Hauraki Minute Book no. 10, p. 432.

⁷³⁹ Native Lands Court, *Thames Advertiser*, 18 July 1878, p. 3.

⁷⁴⁰ Maori Land Court, Hauraki Minute Book no. 10, pp. 433, 435-436.

⁷⁴¹ Maori Land Court, Hauraki Minute Book no. 10, pp. 436-437.

⁷⁴² Native Lands Court, *Thames Advertiser*, 18 July 1878, p. 3.

to the sale at the Pukerahui meeting despite having received £10 'on account of it'.⁷⁴³

Ripeka Te Pea, wife of Wiremu Turipona and a member of Ngati Te Ruinga, next gave evidence. She had told those at the meeting at Pukerahui not to take Mackay's money for 'I will never let my land go'. When she told Mackay not to pay the money, he 'would not listen to what I said, neither would the people, for two days I repeated this to the people and Mr Mackay and they would not listen'. She told them that if they took money 'it should be charged against their own pieces of land not against the Aroha'.⁷⁴⁴ The last witness for Ngati Tumutumu, Rihia Te Kauwae, was a Ngati Haua 'connected with' Ngati Kopirimau, Ngati Hue, and other hapu.

In fights of previous times I took the side of N'haua, but I have also supplied N'tumutumu with firearms & powder wherewith to fight against us. I was on the side of N'Maru at the investigation at Auckland. I was on the side of N'haua at Matamata but I wish to claim on the land through ancestor and Te Raihi through conquest, we quarrelled over it and I said I would go over to the other side.⁷⁴⁵

The case for Ngati Tumutumu being thus concluded, the *Thames Advertiser* commenting that 'a very lame case indeed was made out'; Preece 'did not consider cross-examination necessary, such was the nature of the evidence'.⁷⁴⁶ Ngati Paoa witnesses then gave evidence that all Marutuahu, not solely Ngati Tumutumu, had claims to the land, which they had sold to the government.⁷⁴⁷ Ngati Tamatera provided similar evidence.⁷⁴⁸ Tinipoaka claimed that Tutuki was the only Ngati Tumutumu living at Te Aroha at the time of the Pukerahui meeting, the 'bulk' of the hapu going there afterwards.⁷⁴⁹ He admitted Ngati Tumutumu's claim to Te Aroha but objected 'to their greediness in endeavouring to get the whole of the land'.⁷⁵⁰ Only Ngati Maru prevented Ngati Haua settling there, Ngati Tumutumu

⁷⁴³ Maori Land Court, Hauraki Minute Book no. 10, p. 437.

⁷⁴⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 438.

⁷⁴⁵ Maori Land Court, Hauraki Minute Book no. 10, pp. 438-439.

⁷⁴⁶ *Thames Advertiser*, 18 July 1878, p. 3.

⁷⁴⁷ Maori Land Court, Hauraki Minute Book no. 10, pp. 439-459.

⁷⁴⁸ Maori Land Court, Hauraki Minute Book no. 10, pp. 459-468.

⁷⁴⁹ Maori Land Court, Hauraki Minute Book no. 10, pp. 459-460.

⁷⁵⁰ Maori Land Court, Hauraki Minute Book no. 10, p. 461.

being afraid to live there after Taumatawiwi.⁷⁵¹ Riria Karepe, in additional evidence, stated that when the Aroha was investigated by the court, Marutuahu 'told' Ngati Tumutumu to go onto this land. 'It was not that you were slaves that you were sent there but because you were selected to live there and hold it' against Ngati Haua. 'You were told not to sell it secretly and use the money'. He claimed that Ngati Tumutumu 'were the first to receive money', before the meeting at Pukerahui, 'and that is the reason why all the other tribes took money' then.⁷⁵² Hori Ngakapa Whanaunga, a Ngati Whanaunga rangatira, repeated that he had sold his hapu's interest, an interest shared by all the confederacy of Marutuahu.⁷⁵³

Taipari's father repeated his earlier evidence about selling his interest. Before the court had made its judgment the land had belonged to Ngati Kopirimaui, Ngati Paiahi, and Ngati Hue, the 'principal name' for these being Ngati Tumutumu. 'All the people of Hauraki heard of these hapus and knew they lived on Te Aroha'. He gave details of their living there from his childhood until the Ngapuhi invasion. After Taumatawiwi, 'we went there secretly for the purpose of killing people and we saw some of N'tumutumu there'.⁷⁵⁴ There was no pa then 'because they were in hiding on account of the wars'. Ngati Tumutumu gave eels to both Marutuahu and Ngati Haua because they were 'connected with' the latter.⁷⁵⁵ Although almost no cross-examination was recorded, the press noted the failure of cross-examining these rangatira 'in the hope that they would shake their evidence'.⁷⁵⁶

On the final day of the hearing, 20 July, Taraia's daughter Mere Titia briefly gave evidence. 'Let the money that N'tamatera & N'paoa have received for Te Aroha be charged against their own pieces of land. They are not poor people. My land the Aroha shall never go to the Government or by sale to any-one else, it shall be left as a possession for myself'.⁷⁵⁷ After Rawiri Taiporutu of Ngati Kopirimaui wished to be included as an owner, Pepene admitted his claim, 'as well as the claim of all others who have

⁷⁵¹ Maori Land Court, Hauraki Minute Book no. 10, pp. 462-463.

⁷⁵² Maori Land Court, Hauraki Minute Book no. 10, p. 466.

⁷⁵³ Maori Land Court, Hauraki Minute Book no. 10, pp. 468-470.

⁷⁵⁴ Maori Land Court, Hauraki Minute Book no. 10, pp. 471-472.

⁷⁵⁵ Maori Land Court, Hauraki Minute Book no. 10, p. 473.

⁷⁵⁶ Native Lands Court, *Thames Advertiser*, 20 July 1878, p. 3.

⁷⁵⁷ Maori Land Court, Hauraki Minute Book no. 10, p. 474.

descended from that Ancestor'.⁷⁵⁸ Tamati Waka of Ngati Maru stated that he had sold his interest, even though he had no claim on the land, which belonged to Ngati Tumutumu. 'I took the money on account of it because it was given to me'; Riwai Te Kiore 'received the money and divided it with me'.⁷⁵⁹ Cross-examined by Preece, he qualified his statement by saying he had an interest through Ngati Maru.⁷⁶⁰ Referring to the Pukerahui meeting, after saying that 'none' of Ngati Tumutumu accepted any money he then contradicted himself: 'The men refused to take the money but the women received it' and 'the men participated in it'.⁷⁶¹ Preece's cross-examination revealed more details of the payments:

At the meeting of Pukerahui N'Maru sold their interest. I had £100 myself (receipt produced dated 9 Decr '96 for £1250 signed by Tamati Waka who admitted the signature to be his). I do not acknowledge to have received the sum of £1250 I only know of £600. I only received payment once on account of Te Aroha and that was in Mr Mackay's Office, this money was received by the women and some of the men of N'tumutumu received money, the others refused. All the men who declined to receive money from Mr Mackay on account of Te Aroha participated in the money given to the women. N'tumutumu objected to have the money charged against the Te Aroha, they wished to keep the land, those of N'Rahiri who received this money were Mata Parata, Paranihi (Tautoru's wife) Mata Paraone (wife of Hohepa Paraone). Some of the young men of N'Rahiri also received money, viz: Te Rare, and many others whose names I have forgotten. These were all N'Maru except Parata, these people received the money openly.⁷⁶²

Riwai Te Kiroi, who 'took part in the division', then repeated that he had sold his interest. 'I derive my claim from Hue, N'tumutumu's claim is distinct from ours, there is no one that will turn N'tumutumu off the Aroha, they are living there by right'. Other hapu that took money were 'guilty of Theft'. He told Preece that he had received money on account of 'Pukeamanu and the lands about Waitoa', not Te Aroha. Cross-examined by Symonds, he admitted that the meeting at Pukerahui was about the latter, but stated that Pukeamanu 'was mentioned there. Mr Mackay and I had

⁷⁵⁸ Maori Land Court, Hauraki Minute Book no. 10, p. 474.

⁷⁵⁹ Maori Land Court, Hauraki Minute Book no. 10, p. 474.

⁷⁶⁰ Maori Land Court, Hauraki Minute Book no. 10, p. 476.

⁷⁶¹ Maori Land Court, Hauraki Minute Book no. 10, p. 475.

⁷⁶² Maori Land Court, Hauraki Minute Book no. 10, p. 476.

some disagreement about it'.⁷⁶³ He concluded by repeating that the money he received was 'to be charged against the lands about the Waitoa although I know the lands have been sold'.⁷⁶⁴

Tutuki, a Ngati Tumutumu living at Te Aroha, gave a history of his hapu's occupation of the land. Being at Te Aroha at the time he had not attended the Pukerahui meeting. 'I did not approve of the action of selling this land to the Government; had it been sold by myself it would have been alright'.⁷⁶⁵ He described Ngati Tumutumu, Ngati Hue, and Ngati Kopirimaui as having been 'distinct tribes but they lived on the same land'. After giving his version of past conflicts, he concluded his evidence, and all the evidence, by stating that 'we never gave eels either to N'haua or Marutuahu'.⁷⁶⁶

The court reserved judgment until the chief judge and Mackay were present. 'The payments by the Government on account of Te Aroha would have to be more particularly enquired into before Judgment was given'.⁷⁶⁷ The judgment, given three days later, accepted that Marutuahu had sold the land to the government at Pukerahui, and that Ngati Tumutumu, now Ngati Rahiri, had 'objected to the sale, although some of their principal men' had received money

both before and after the Pukerahui meeting. This would imply an acquiescence in the tribal arrangement. These people were the original possessors of a portion of this land, and were afterwards placed there by Marutuahu to guard it against Ngatihaua. They would not have held it unsupported by the confederation; in fact after the battle of Taumatawiwi they lived at Turua and returned to live on the Aroha after the land was awarded to Marutuahu.

The Court is of opinion that the Claims of these people cannot be ignored and after careful consideration of the matter have decided to award them seven thousand five hundred (7500) acres at Omaha where they are now residing and have a pa and cultivations subject to such sums of money as they may have received from time to time from Land Purchase Commissioners.⁷⁶⁸

⁷⁶³ Maori Land Court, Hauraki Minute Book no. 10, p. 477.

⁷⁶⁴ Maori Land Court, Hauraki Minute Book no. 10, p. 478.

⁷⁶⁵ Maori Land Court, Hauraki Minute Book no. 10, p. 478.

⁷⁶⁶ Maori Land Court, Hauraki Minute Book no. 10, p. 479.

⁷⁶⁷ Maori Land Court, Hauraki Minute Book no. 10, p. 479.

⁷⁶⁸ Maori Land Court, Hauraki Minute Book no. 11, pp. 13-14.

This decision meant that the remaining 46,500 acres went to Marutuahu. It was estimated that Ngati Rahiri had received 'an advance of about £2,000'. The *Thames Advertiser* congratulated Preece on the result, achieved despite 'the tough fight' by 'influential natives', but noted that the government would have granted Ngati Rahiri the 'several thousand acres' they were entitled to even if they had not gone to court.⁷⁶⁹ This was Preece's last case; after developing 'inflammation of the lungs' he died on 10 August.⁷⁷⁰

Wilkinson later mentioned 'the surprise' of Ngati Rahiri upon discovering 'they could not become possessed of the whole block'.⁷⁷¹ When the *Thames Advertiser* asked Mackay how much he thought they should get, he said 7,000 acres, 500 less than was granted. 'Who should know the merits of this case better than Mr Mackay' who was 'thoroughly conversant' with its 'intricacies'? 'Perjurers' might have to answer for their perjury,⁷⁷² but it did not specify who had committed perjury; as usual, no action was taken against anyone.

When the court ended three months of sittings at Shortland in mid-September, it was praised as being 'the most important Land Court' ever held there, doing 'a very large amount of useful work'.⁷⁷³ It had successfully dealt with 'a vast amount of business', despite, 'as a rule', Maori being 'the most difficult people' to deal with.⁷⁷⁴

FINAL SETTLEMENT

Ngati Rahiri were reportedly 'very dissatisfied with the decision' and would either appeal or seek a rehearing.⁷⁷⁵ Hoani Nahe sent a telegram to Sheehan complaining that Symonds had refused the latter:

If the 7500 acres had been left as a reserve for the Ngatirahiri I should have been better pleased as it is; it is that this land will be

⁷⁶⁹ *Thames Advertiser*, 24 July 1878, p. 2.

⁷⁷⁰ *New Zealand Herald*, 12 August 1878, p. 2.

⁷⁷¹ G.T. Wilkinson to E.W. Puckey, 5 February 1880, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁷² *Thames Advertiser*, 25 July 1878, p. 2.

⁷⁷³ *Thames Advertiser*, 16 September 1878, p. 2.

⁷⁷⁴ *Thames Advertiser*, 17 September 1878, p. 3.

⁷⁷⁵ *Thames Advertiser*, 24 July 1878, p. 2.

taken to pay their debts. That is why I think that there should be a re-hearing of this land – some of the Europeans are much distressed that the claims of Ngatirahiri were not acknowledged. If the money alone that was advanced to these tribes has been charged against Te Aroha and a sufficiently large portion had been set apart as a home for the Ngatirahiri it would have been well. Mr Puckey has said that the Ngatirahiri should not return to Te Aroha again but that they should go and speak to Mr Preece.

Maori were blaming Grey's government, of which Nahe was a member, for the 'doings of the Court'.⁷⁷⁶ Two days later, he sent another telegram:

Ngatirahiri has ceased to listen to what Mr Preece and I have said they returned right back to Te Aroha – They will throw the timber for the bridge at Te Aroha into the water – I have told them to act with moderation and that possibly the Minister may make some satisfactory arrangement outside of the decision of the Court – Well they said to me, It is through you ... that it went wrong: through my going to Te Aroha last year to put a stop to their quarrel with the tribes of Hauraki when they would have suffered before they lost their land. Now, they will not listen to me but will act in an evil manner in the future with respect to Te Aroha, I told them not to do so but let the matter be carefully gone into.

He requested time to explain two important but unstated points when they met in Wellington, for 'their hearts are beginning to feel sore'.⁷⁷⁷ After their meeting, Preece, informed that Nahe was charging the judge and interpreter with being 'unfair' and 'unduly supporting the Government side', denied these accusations:

It is true that the Judge did several times tell the witnesses when they made most deliberate contradictions and gave their evidence in a manner which was most discreditable [and] that their defence was most unreliable. But if you had heard the evidence you would have said the same. Neither the court nor I ever objected to his advocating his own claim and he retired from the

⁷⁷⁶ Hoani Nahe to John Sheehan, 24 July 1878 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁷⁷ Hoani Nahe to John Sheehan, 26 July 1878 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

Court only when the Judge ruled that only one agent could appear on each side.⁷⁷⁸

On the same day, Mackay told Sheehan that it was not desirable for the court to reconsider the question of title. 'The effect would be to put all the original grantees in again when probably a large number of them had sold their interest right out and the reserve may have been made with one section of the grantees'. The four main tribes of Marutuahu had 'sold right out' but Ngati Rahiri had received the reserves, which had been 'subdivided into three divisions' and grants would have to be issued to those named in the memorandum.⁷⁷⁹

After receiving this advice, Sheehan informed Preece that he considered that Ngati Rahiri were unreasonably demanding too much land. 'Their actions are prompted by private persons in treaty for their reserves', and he hoped that they would accept 5,000 acres plus a sum of money to be determined by Mackay and Preece. 'Although they have been a stiff-necked people, yet I would like to see them obtain the fullest benefit possible from their interest in the property'. Their reserve, properly managed, would provide them with a lot of money because it might become the centre of a township. 'By a judicious admixture of freehold and leasehold of the town, suburban, rural lots, it might be made the source of great permanent benefit', and accordingly he instructed that it was to be made inalienable without the consent of the Governor. His department was willing to 'survey, subdivide and dispose of the property making ample reserves', charging the owners 'with only the actual cost', and Preece should arrange this with Nahe.⁷⁸⁰

The death of Preece meant that, yet again, Mackay was asked to resolve yet another problem.⁷⁸¹ On 10 August he succeeded 'in arranging on a most satisfactory footing the long-standing dispute'.⁷⁸² It was agreed that

⁷⁷⁸ J.W. Preece to John Sheehan, 5 August 1878 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁷⁹ James Mackay to John Sheehan, 5 August 1878 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁸⁰ John Sheehan to J.W. Preece, 6 August 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁸¹ G.T. Wilkinson to Under-Secretary, Native Office, 1 July 1879, Maori Affairs Department, MA-MLP 1, 1879/202, ANZ-A; *New Zealand Herald*, 12 August 1878, p. 2.

⁷⁸² *Thames Advertiser*, 12 August 1878, p. 2.

Ngati Rahiri should receive £3,000 plus 7,500 acres as reserves; two hapu each received 1,750 acres and the third received 4,000.⁷⁸³ Mackay warned Sheehan that they were 'willing to let the land be inalienable but in their present frame of mind they will not be brought into any great scheme for the proper management of the estate'; he hoped they would realize the benefits later.⁷⁸⁴ When urged that the hot springs become a public reserve rather than be allotted to Ngati Rahiri the government instructed Mackay to make the necessary arrangements.⁷⁸⁵

In the week after reaching the settlement, Mackay, assisted by Wilkinson, spent every evening negotiating with Ngati Rahiri, some meetings 'continuing into the early hours of the morning. The Aroha has been one of the most difficult of all the Hauraki land questions to settle' and these final negotiations succeeded because Mackay got Ngati Rahiri 'to appoint representatives' to 'go into the whole question' with himself and Wilkinson.

The 7,500 acres granted to them by the court have been divided, and all the owners, numbering 166, have been separated according to their respective families. The debts and liens on the land have been arranged for, in conjunction with the Europeans with whom they were incurred. The names of the grantees of the different reserves have been decided upon in the presence of the whole tribe.

Once each family was allocated their section, the deed could be signed and the money paid.⁷⁸⁶ Rewi Mokena later stated, incorrectly, that the land was divided only amongst those who lived there permanently; the large number of owners was because husbands and wives were included.⁷⁸⁷ Wilkinson noted that the committees appointed by each hapu gave a smaller portion to those who had already received money than to those who had not.⁷⁸⁸

⁷⁸³ *Thames Advertiser*, 14 August 1878, p. 3.

⁷⁸⁴ James Mackay to John Sheehan, 10 August 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁸⁵ *Thames Advertiser*, 15 August 1878, p. 2.

⁷⁸⁶ *Thames Advertiser*, 20 August 1878, p. 3.

⁷⁸⁷ Maori Land Court, Hauraki Minute Book no. 56, p. 122.

⁷⁸⁸ G.T. Wilkinson to Under-Secretary, Native Department, 21 July 1885, Maori Affairs Department, MA 1, 13/86, ANZ-W.

The final allocations were recorded on 24 August. In the Omaha reserve, of 4,269 acres, 40 subdivisions were made on family lines. The largest number of owners was 19, sharing 740 acres; another grant, of 750 acres, went to 15 owners. There were 20 allocations to individuals, the smallest being 10 acres.⁷⁸⁹ At the 3,250-acre Wairakau reserve, 28 subdivisions were made, some with several owners from the same family; the largest number was 12 owners, with 450 acres. Ten had only one owner, the smallest acreage being 20 acres.⁷⁹⁰ Ngati Rahiri received 616 acres at Manawaru, on the western bank of the Waihou, but only four rangatira were listed in the grant, each with individual areas specified.⁷⁹¹ A 'general timber reserve' of 100 acres was granted to 37 men and women 'with small holdings'; Reha Aperahama received one of 250 acres, and two other rangatira 100 and 40 acres respectively.⁷⁹² These extra areas were provided by 'a gift' of 1,225 acres 'from out of the government portion', meaning that in all Ngati Rahiri received 8,725 acres.⁷⁹³

The Waitangi Tribunal considered it 'odd that only the southern slopes of a mountain considered sacred by local Maori was included in the reserve', but, as it noted, there was 'no detailed evidence as to how the boundaries of the reserve were decided'.⁷⁹⁴ At no time, then or later, did Maori explain why they did not want more of their mountain included in the reserves.

On Monday, 26 August, the *Thames Advertiser* anticipated 'a lively scene' when Mackay paid the £3,000. This was to have been paid on the previous Saturday afternoon, 'but, as it appeared there would be some grumbling by the natives if it were given to their chiefs to distribute, it was decided to defer the payment' and to divide the money 'into smaller lots, and each one entitled to a share will have the exact amount placed in his hands'.⁷⁹⁵ The payment resulted in several recipients going on a spree, 'but there was very little rowdyism'. On 24 August about 70 members of Ngati Tumutumu and other hapu had witnessed the deed of cession being signed.

⁷⁸⁹ Schedule No. 1, 24 August 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁹⁰ Schedule No. 2, 24 August 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁹¹ Schedule No. 3, 24 August 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁹² Schedule No. 4, 24 August 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁹³ G.T. Wilkinson to Under-Secretary, Native Office, 1 September 1879, Maori Affairs Department, MA-MLP 1, 1879/202, ANZ-W.

⁷⁹⁴ Waitangi Tribunal, *The Hauraki Report* (Wellington, 2006), vol. 2, p. 482.

⁷⁹⁵ *Thames Advertiser*, 26 August 1878, p. 3.

After claims by Strange and other Pakeha were settled with agreed payments, the balance was divided amongst hapu:

The parcels of £1 notes (ranging from £80 to £400) were given to the members of the committee elected to arrange matters with the Government agents. As soon as the schedule containing the names of grantees of the reserves has been completed, the deed will be brought before the Native Lands Court, and an application made for an order in favour of the Government.... The Government will prepare the Crown grants for the portions reserved as quickly as possible, and a clause will be inserted which will render void any agreement to sell, lease, or mortgage without the consent of the Governor.⁷⁹⁶

On 28 August, Mackay, with the support of Aihe Pepene and Keepa Te Wharau, obtained a new order from the court enabling the government to acquire the whole block.⁷⁹⁷ On the same day, 84 members of Ngati Hue, Ngati Kopoumau, Ngati Koropango, Ngati Teatua, Ngati Tekahu, Ngati Tumutumu, Ngati Haumia, Ngati Teruinga, and Ngati Tau, 'forming the Ngati Rahiri division of the Confederated Tribes of Marutuahu of Hauraki', signed the deed of sale to the Crown of the 53,908 acres comprising the block.⁷⁹⁸ After Ngati Rahiri received their final payment of £3,000, in the following month Ngati Maru, Ngati Tamatera, Ngati Whanaunga, and Ngati Hura each received £100, and two weeks later Ngati Paoa received £130, the final payment.⁷⁹⁹ These sums were given by Preece as grants towards their expenses in attending the court; Ngati Paoa would not accept the lower figure because it was insufficient.⁸⁰⁰ The total paid by the government since 1873 was £16,579 9s 10d; after a 'charter charged to

⁷⁹⁶ *Thames Advertiser*, 27 August 1878, p. 2.

⁷⁹⁷ Maori Land Court, Hauraki Minute Book no. 11, p. 254; memorandum of J.J. Symonds and Hori Riiwhi, 28 August 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁷⁹⁸ Crown Purchase of Te Aroha Block, 28 August 1878, Lands and Survey Department, ABWN 8102, W 5279, box 109 AUC 1302, ANZ-W.

⁷⁹⁹ Register of Payments to Individuals for Purchase of Land 1873-1880, Te Aroha, pp. 5-6, entries for 24 August 1878, 16 September 1878, 1 October 1878, Maori Affairs Department, MA-MLP 7/7; memorandum of 27 October 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸⁰⁰ W.H. Grace to John Sheehan, 18 August 1878 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

Pepene' for the hiring of his 'Riroriro', of £12, was deducted, the final amount was £16,567 9s 10d.⁸⁰¹

Late in September, Nahe complained about the final payments to Marutuahu. After providing details of his ancestral claim, he repeated that Te Aroha did not belong to Marutuahu. Outlining his assistance in averting conflict with Ngati Tamatera, he claimed to feel ashamed because money was paid to his opponents. 'The Government has strenuously supported Marutuahu and therefore I have been an object of derision to my tribe because I have not followed the same course as they did'. He opposed Preece having acted for Marutuahu whilst holding an official position, but now dropped his objection to Marutuahu being granted Te Aroha; and asked for some land there or elsewhere for himself and his hapu.⁸⁰²

SUBDIVIDING THE BLOCK

In June 1878, after the court made its final decision, Wilkinson went to Te Aroha with Puckey and surveyor George Edgecumbe to subdivide the reserves. In Wilkinson's opinion, explained in January 1881, although Edgecumbe's subdivision was fair the owners

would have nothing to do with it. There was a fear of the leading people who wanted to take the best of the land within their own areas, and leave the rest of the people to take, either the rough hilly ground, or else the swamps.... To this of course the others objected, and after a great deal of talk and disputing Mr Puckey and I had to leave the matter to be settled at a more favourable opportunity.

Despite his constantly trying to settle the matter, not until the goldfield opened were the final boundaries decided.⁸⁰³ Three months later he provided further details:

The Natives having been allowed (by arrangement with the Government) to take their reserves in different portions of the

⁸⁰¹ Register of Payments to Individuals for Purchase of Land 1873-1800, Te Aroha, p. 6, Maori Affairs Department, MA-MLP 7/7, ANZ-W.

⁸⁰² Hoani Nahe to John Sheehan, 23 September 1878, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸⁰³ G.T. Wilkinson to R.J. Gill, 19 January 1881, Maori Affairs Department, MA 1, 13/86, ANZ-W.

block instead of in one place as intended by the Court, a set of schedules were made shewing the number of Blocks, and owners for same which were taken in each locality, such schedules being numbered from one to four, but no proportionment of separate interest of each grantee was then fixed upon, or ever discussed, the natives being satisfied to have the blocks assume the appearance of Blocks of land which usually pass the Native Lands Court of a certain area, with a certain number of grantees as tenants in common, reserving for some future time (if necessary) the subdivision or proportionment of the shares amongst each grantee.

Before these schedules were taken to the court, Mackay signed them on behalf of the government. 'His signature was put in such a position to preclude the possibility of inserting other names than those already inserted'.⁸⁰⁴

At the beginning of November 1878, it was reported that the government planned to lay off immediately a 2,000-acre township on the riverbank. Its sale was expected to meet the cost of constructing a railway line from Hamilton, and the remaining land would be sold for farms, thereby paying for extending the line to Thames.⁸⁰⁵ Some even anticipated that these sales would enable making railways in Waikato and Taranaki also.⁸⁰⁶ The quality of the land was enthusiastically praised.⁸⁰⁷

Later in November, it was announced that the survey would be 'commenced immediately with a view to cutting it into small blocks'.⁸⁰⁸ The chief surveyor for the Auckland provincial district, Stephenson Percy Smith,⁸⁰⁹ having been asked by the Land Purchase Department to survey the reserves 'immediately', sent the district surveyor to triangulate the block. Smith had 'great difficulty' in finding a surveyor, 'but at last got'

⁸⁰⁴ G.T. Wilkinson to Frederick Whitaker (Attorney General), 8 April 1881, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸⁰⁵ *Auckland Star*, 4 November 1878, p. 2.

⁸⁰⁶ *New Zealand Herald*, 21 November 1878, p. 2.

⁸⁰⁷ For example, *Thames Advertiser*, 28 October 1878, p. 3, 25 November 1878, p. 3, 4 December 1878, p. 3.

⁸⁰⁸ *Thames Advertiser*, 22 November 1878, p. 3.

⁸⁰⁹ See Giselle M. Byrnes, 'Stephenson Percy Smith', *Dictionary of New Zealand Biography*: vol. 2, pp. 470-471.

William Australia Graham,⁸¹⁰ whom he believed would be ‘the best man it is possible to get. I anticipate great difficulties in the subdivision of the 8000 acres of Reserve with 72 portions for Natives – as I know from previous experience that the greatest care and knowledge of the Natives will be required to bring the matter to a successful issue’. Graham would be paid 3s per day more than the normal rate because ‘the work is not that of a Surveyor alone’.⁸¹¹ His comments reflected the perception that Graham had a deep understanding of Maori and their culture.⁸¹² (In 1881 and 1882, Graham was to acquire shares in mining claims and companies in this district.)⁸¹³

In mid-December, after visiting Te Aroha, Smith reported having found ‘perhaps more dry land on the Eastern bank’, but this was ‘not extensive, the Native Reserves having taken up a large portion’. The swamps on the western side were ‘not bad’ and could be drained before being sold. ‘The best site for a village’, the Te Kawana Block of 250 acres, had ‘unfortunately been made a Native reserve’. As it was ‘the present landing place for the Steamers which supply all the settlers round with their goods’ he considered it ‘would be greatly to the advantage of Government if this site could be exchanged – for I know of no other so good for a Town. The Natives are already building wooden houses here, being well aware of its advantages’.⁸¹⁴ The triangulation of the Aroha block was nearly finished, and early in the following month three parties would survey the subdivisions.⁸¹⁵

⁸¹⁰ See *Cyclopedia of New Zealand*, vol. 2, p. 740; P.J. Gibbons, ‘William Australia Graham’, *Dictionary of New Zealand Biography*, vol. 2, p. 176.

⁸¹¹ S. Percy Smith to Surveyor General, 25 November 1878, Lands and Survey Department, LS 1/2344, ANZ-W.

⁸¹² See *Auckland Weekly News*, 12 July 1890, p. 28, 29 September 1894, p. 36; *Observer*, 2 May 1903, p. 17, 18 July 1903, p. 5, 1 August 1903, p. 4, 28 October 1905, p. 4; *New Zealand Herald*, 10 May 1916, p. 5.

⁸¹³ Te Aroha Warden’s Court, Register of Te Aroha Claims 1880-1888, folio 228, BBAV 11567/1a; Register of Licensed Holdings 1882-1887, folios 13, 55, BBAV 11500/9a, ANZ-A; *New Zealand Gazette*, 24 April 1881, p. 476, 27 April 1882, p. 647, 22 June 1882, p. 895, 17 August 1882, p. 1131.

⁸¹⁴ S. Percy Smith to Surveyor General, 13 December 1878, Lands and Survey Department, LS 1/2344, ANZ-W.

⁸¹⁵ S. Percy Smith to Surveyor General, 16 December 1878, Lands and Survey Department, LS 1/2344, ANZ-W.

In early January, Sheehan visited Omaha to talk to Ngati Rahiri.

A discussion on topics considering the survey and opening of the land for European settlement took place. The question of a subdivision of the township to meet the wishes of the various claimants, and the survey of the township site on their reserve lands formed the chief burden of their request, and afforded material for sundry grievances

which Sheehan was asked to adjudicate upon.⁸¹⁶ He told Ohinemuri settlers that the government was 'using all diligence' and would ask the waste lands board to employ an additional surveyor 'to facilitate the work'.⁸¹⁷ In early March, Puckey informed Richard John Gill, Under-Secretary of the Land Purchase Department, that the government would obtain about 3,000 acres of good land once the reserves were made. 'The natives dispute so much amongst themselves as to their holdings that we had to leave them to try and settle amongst themselves where the several buildings should be. They promised to go into the matter after we left'. However, the reserves on the western bank of the river had been determined.⁸¹⁸ Smith told Gill that he would send the tracing of the block 'for proclamation as soon as maps of reserves are received', but nothing could be done on the eastern side of the river 'owing to dispute about reserves'.⁸¹⁹ Three days later, he confidently informed the Surveyor General that 'Native reserves have hitherto proved a delay but they are in a fair way of being settled now'.⁸²⁰ At the end of that month and in early April Puckey and Wilkinson were 'almost daily looked for' at their offices in Shortland by Ngati Rahiri 'to allocate the respective reserves, as the survey works are progressing satisfactorily'. They had 'to adjust disputes as to boundaries and claims'.⁸²¹ Early in April, both men went to Te Aroha to mark off the reserves, and once this was done, quickly, Ngati Rahiri had to wait for

⁸¹⁶ *Thames Advertiser*, 13 January 1879, p. 3.

⁸¹⁷ *Thames Advertiser*, 15 January 1879, p. 3.

⁸¹⁸ E.W. Puckey to R.J. Gill (Under-Secretary, Land Purchase Department), 10 March 1879 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸¹⁹ S. Percy Smith to R.J. Gill, 12 March 1879 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸²⁰ S. Percy Smith to Surveyor General, 15 March 1879 (telegram), Lands and Survey Department, LS 1/2344, ANZ-W.

⁸²¹ *Thames Advertiser*, 2 April 1879, p. 3.

Puckey 'to allot the portions to the different hapus'.⁸²² Wilkinson explained the position to Gill:

The Natives cannot yet come to any arrangement amongst themselves about the allocation of their Reserves at the Omahu and there is only a small portion of good land and as I expected they all want it. At the Wairakau end there will not be so much difficulty and I have arranged when I go up again next week to accompany the natives on the ground and expect to get those Reserves satisfactorily placed.

He had also made 'a satisfactory arrangement' with Reha Aperahama about his reserve, and noted a claim by a 'half-caste' that he had been promised a 50-acre reserve.⁸²³

The Mokena family sought to obtain extra land for themselves, unsuccessfully.⁸²⁴ Hoani Nahe had been supporting their claim and that of Hori More, as members of Ngati Kopirimaui, to land on the western side of the river. His complaint that the 700 acres allotted to More and Taipari and their hapu was of poor quality prompted Puckey's rebuff: 'The piece given by Mackay was what Taipari and More chose and where the latter had been living for years', and the claim that More's cultivations and animals were on the western side of the river was 'absolutely incorrect'.⁸²⁵ Puckey later explained that Ngati Kopirimaui had not asked the court for land on the western bank. When Mackay, assisted by Wilkinson, spent 'a month in allocating reserves for the whole people', More chose his 740 acres on the eastern side, which he had cultivated for years. Taipari did not raise the issue of obtaining land on the western side until some months afterwards. Puckey considered that Taipari, 'the prime mover in this matter', had been 'dealt with very liberally already' and had 'no reasonable grounds for consideration': since the request for the extra land was made in January he had 'accepted £1000 in full for all his right, title and interest and in

⁸²² *Thames Advertiser*, 7 April 1879, p. 3, 9 April 1879, p. 3.

⁸²³ G.T. Wilkinson to R.J. Gill, 12 April 1879 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸²⁴ See paper on Mokena Hou.

⁸²⁵ Hoani Nahe to John Sheehan, 7 January 1879, with marginal notations by E.W. Puckey, Maori Affairs Department, MA 1, 13/86, ANZ-W.

consideration of the assistance rendered by him in the acquisition of the land by the Crown'.⁸²⁶

In reporting that Ngati Rahiri were 'quarrelling over the allotment of the reserves', the *Thames Advertiser* hoped that, 'in the meantime, the surveyors will have an opportunity to complete the survey of the magnificent blocks intended for the market'. It hoped Ngati Rahiri would 'not be allowed to select the banks of the river for an almost undefined distance, as we hear they are likely to do. Let the distribution be more fairly made'.⁸²⁷ Anticipating that the opening of the district for settlement was 'near consummation', an editorial noted that 'some 30 persons' were surveying 'and preparing the land for the manipulation of' the lands board. It was concerned that the reserves might 'lock up the best of the land', for it was rumoured that Ngati Rahiri were 'claiming nearly the entire river frontage, where, of course, the cream of the land is situated'. Such an allocation would be 'unfair to the Government, and very much depreciate the value of the block in the market'. With reserves established on 'the choicest part of the land' and '£10,000-worth' set aside as an endowment for the Thames High School, it feared 'a great deal' of the land available for the public to purchase would be 'of an inferior description, and some disappointment will ensue'. A 'fair division' should be made in 'the vicinity' pointed out by Ngati Rahiri, but they were entitled to receive all their land along the river banks 'to the manifest detriment' of land 'shut out by this process'. It mattered little whether Ngati Rahiri disagreed over the allocation of reserves 'as long as sufficient quantity is set apart for them, and the remainder made available to immediate sale and settlement'. It wanted the survey made as quickly as possible and the land 'put into the market without loss of time' to 'satisfy the numerous applicants'. Instead of allowing surveyors to remain idle because they were prevented from surveying the reserves, they should push on with surveying 'the entire district, leaving the reserves to be dealt with when the whole is completed and ready to be proclaimed open for sale'.⁸²⁸

The Auckland press, after noting that 'much rejoicing' had been earlier 'expressed that one of the finest portions of the Thames district was to be opened at last' once Broomhall was 'finally got rid of', was concerned at the

⁸²⁶ Memorandum by E.W. Puckey, 9 July 1879, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸²⁷ *Thames Advertiser*, 11 April 1879, p. 3.

⁸²⁸ Editorial, *Thames Advertiser*, 12 April 1879, p. 2.

new disputes. 'As there is nobody on the spot with authority sufficient to decide the differences, the whole thing may be hung up for some considerable time'. It feared that Ngati Rahiri would 'pick the eyes' out of the land, and that, 'by clever dealing with the reserves' by monopolizing the river banks, would 'undoubtedly receive back greater value than they parted with. Europeans will be disgusted, and will not care to give a high price for land in the block when they cannot get the best part of it, and when improvements may be impeded by the existence of these reserves'.⁸²⁹

A Te Aroha correspondent, George Stewart O'Halloran,⁸³⁰ reported 'a great hubbub over the reserves', for the owners could not 'agree amongst themselves as to their boundaries, and the surveyors have been knocked off on account of disputes'.⁸³¹ A man returning from a visit told the *Thames Advertiser* that none of the surveyors had been turned off but were all busy laying off the road on the western side of the river and determining three small reserves to the north of the block. The reserves on the eastern side of the Waihou would have 'a river frontage of two or three miles' and comprise 'about 3,500 acres of land not to be equalled in the colony'.⁸³² Five days later, this newspaper explained that, as the external boundaries of the reserves had been 'defined and put on a plan' with the consent of the owners before they won their case, the dispute was not about the position of the reserves but their partition.⁸³³

Puckey had informed Ngati Rahiri that until they could 'agree as to the selections' he would advise the government 'to go on with the survey independently of their reserves'.⁸³⁴ By the beginning of May, the survey of the western side of the river was complete. 'The natives have not yet settled their differences in respect to the appointment of reserves, but as the squabble is only one that concerns the natives themselves, very little interest is evinced in it by Europeans'.⁸³⁵ In early June, O'Halloran was 'informed that the surveys will be in a forward state by the end of this month when no doubt the Government will have taken immediate steps to

⁸²⁹ *Auckland Weekly News*, 19 April 1879, p. 12.

⁸³⁰ See paper on his life.

⁸³¹ Te Aroha Correspondent, *Thames Advertiser*, 12 April 1879, p. 3.

⁸³² *Thames Advertiser*, 14 April 1879, p. 3.

⁸³³ *Thames Advertiser*, 19 April 1879, p. 3.

⁸³⁴ Editorial, *Thames Advertiser*, 12 April 1879, p. 2.

⁸³⁵ *Thames Advertiser*, 5 May 1879, p. 2.

place the land on the market'.⁸³⁶ Two days later Smith complained that 'the vexatious delays and disputes as to the boundaries of the Native Reserves have prevented our touching all but a few thousand acres at the South end – which are now being subdivided'. The 'delay and expense' involved in surveying these reserves caused him to reassign the surveyor allocated to 'that special duty'.⁸³⁷

In late June, a visiting reporter discovered a surveying party of 22 men camped near the western side of the river. 'They were laying the land off in blocks and roads, previous to its being offered for sale. The size of the lots are to vary from 50 to 320 acres, which will be the maximum quantity'.⁸³⁸ In late August, it was reported that Smith had been instructed to lay off an endowment for the new Thames High School in the Wairakau block to the value of £10,000. The survey of the whole block was 'completed, and laid off in township, suburban and village settlements'.⁸³⁹

Although the main survey was completed, the reserves remained in contention. On 1 July, Wilkinson explained to his department that it had been agreed that Ngati Rahiri could divide Omahu and Wairakau, 'where they formerly had cultivations', amongst themselves, and it had taken a month getting divisions amongst the hapu

settled to their satisfaction. But it has turned out that having the whole thing settled on paper and settling the thing on the ground are two entirely different things with the Aroha natives, for on Mr Puckey and myself going there with the surveyor to have the matter settled we found them all quarrelling and dissatisfied lest some should get their holdings in better places than others. In fact they every one wanted the best portions for themselves, and as these were not large enough to satisfy all no arrangement could be come to – each one was willing that his neighbour should be given all swamp, or inferior land, but the piece for himself must be all good.

Seeing that nothing could then be done with this quarrelsome people, Mr Puckey and I left them to think it over and with the hope that they would change their minds and be more amenable bye and bye to reason.... The after arrangements such as subdivision and allocation were merely done out of consideration

⁸³⁶ Te Aroha Correspondent, *Thames Advertiser*, 10 June 1879, p. 3.

⁸³⁷ S. Percy Smith to Surveyor General, 12 June 1879, Lands and Survey Department, LS 1/2344, ANZ-W.

⁸³⁸ 'Agricola', 'Ten Days in the Waikato', *Auckland Weekly News*, 28 June 1879, p. 13.

⁸³⁹ *Thames Advertiser*, 25 August 1879, p. 2.

for and to assist the Natives – and if they do not choose to avail themselves of these offers of assistance the loss will be theirs alone.⁸⁴⁰

In time, these disagreements were resolved; being of no interest to Pakeha, who got what went unrecorded in the press. In July, the Crown's portion west of the Waihou was proclaimed, as was the eastern portion in the following month.⁸⁴¹ Some issues remained unsettled in early September, when Edgecumbe, preparing to survey Ruakaka, noted a portion on the northern end was being 'objected to by Natives'.⁸⁴² In December, Hingekerea Puru petitioned parliament to have his land, only part of which was in the Aroha block, removed from that bought by the government because he had not received any money. Wilkinson had told him he would only receive 50 acres at Manawaru.⁸⁴³ Puckey noted that 'it was unfortunate' for this claimant that 'he was disporting himself at the Bay of Islands instead of looking after his interests' when the court sat. He was 'clearly not entitled to any consideration', for 'if his own kindred only awarded him 50 acres why should we give him any more'.⁸⁴⁴ Wilkinson considered that he had obtained a greater interest than some more important members of his hapu, but Puru continued to complain that the land was wrongly subdivided and Ngati Rahiri had not given him any money.⁸⁴⁵

PREPARING TO SELL TO SETTLERS

In mid-January 1879, Sheehan told a deputation of Ohinemuri residents that the government planned to sell all the Aroha lands before the

⁸⁴⁰ G.T. Wilkinson to Under-Secretary, Native Office, 1 September 1879, Maori Affairs Department, MA-MLP 1, 1879/202, ANZ-W.

⁸⁴¹ Waitangi Tribunal, *The Hauraki Claim*, vol. 2, p. 469.

⁸⁴² Field Book no. 343, issued to F.H. Edgecumbe on 9 September 1879, p. 9, Land Information New Zealand, Hamilton.

⁸⁴³ Hingekerea Puru to Parliament, 10 December 1879, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸⁴⁴ Memorandum by E.W. Puckey, 6 January 1880, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸⁴⁵ G.T. Wilkinson to E.W. Puckey, 5 February 1880; Hingekerea Puru to John Bryce (Native Minister), 11 March 1880, Maori Affairs Department, MA 1, 13/86, ANZ-W.

end of the financial year in June, once the surveys were completed.⁸⁴⁶ Pakeha wanted improved roads and land for farms as soon as possible.⁸⁴⁷ The chairman of the lands board estimated that the land would probably be open for settlement in May.⁸⁴⁸ There were enquiries about the likely route for the railway and the site of the township. 'Settlement is rapidly advancing in the neighbourhood', and when the survey was completed and the land opened for selection 'a large influx of population' was anticipated.⁸⁴⁹ 'The apparent apathy' of the government about selling the land was complained about.⁸⁵⁰

In early February, Percy Smith reported that 'probably' from 20,000 to 25,000 acres would be 'open for Sale during this financial year'.⁸⁵¹ A month later, he believed that 15,000 acres would be ready for sale by the end of April.⁸⁵² In the middle of that month it was anticipated that all the land on the western side of the river apart from some small reserves would become available.⁸⁵³ Early in May, it was expected that the lands board would open up to 4,000 acres 'in a day or two'.⁸⁵⁴ Late that month, Smith was informed that three quarters of the land on the western side of the river was 'swamp inaccessible in its present state for horses or cattle'. As there were 'no natural outlets through the swamps', on most sections 'it would be impossible for occupiers to drain, unless a general system of main outlet drains', amounting to 18 miles, was created.⁸⁵⁵ Accordingly, Smith proposed draining the land intended for settlement by those in 'modest circumstances', with an estimated profit through its enhanced value of at least £2,100. He feared any land sold undrained would be 'in a great

⁸⁴⁶ *Thames Advertiser*, 15 January 1879, p. 3.

⁸⁴⁷ For example, *Thames Advertiser*, 28 January 1879, p. 3, 4 February 1879, p. 3, 7 February 1879, p. 3.

⁸⁴⁸ *Thames Advertiser*, 8 February 1879, p. 3.

⁸⁴⁹ Special Correspondent, *Thames Advertiser*, 8 April 1879, p. 3.

⁸⁵⁰ Own Reporter, 'Te Aroha District', *Thames Advertiser*, 9 April 1879, p. 3.

⁸⁵¹ S. Percy Smith to Surveyor General, 8 February 1879 (telegram), Lands and Survey Department, LS 1/2344, ANZ-W.

⁸⁵² S. Percy Smith to Assistant Surveyor General, 15 March 1879 (telegram), Lands and Survey Department, LS 1/2344, ANZ-W.

⁸⁵³ *Thames Advertiser*, 14 April 1879, p. 3.

⁸⁵⁴ *Thames Advertiser*, 5 May 1879, p. 2.

⁸⁵⁵ Lawrence Cusson (District Surveyor) to S. Percy Smith, 26 May 1879, Lands and Survey Department, LS 1/2344, ANZ-W.

measure' acquired 'for speculative purposes, in large Blocks, or not sold at all'. Once surveying commenced on the eastern side of the river, he would create timber reserves there.⁸⁵⁶ A visiting reporter discovered that sections 'might be taken up under the deferred payment system', and agreed that land could 'be greatly enhanced in value' before sale 'if a main drain were made through the centre of the swamp, and running the whole length of it'. Should the land be sold in small lots, it was 'difficult to see' how it could be utilized by small farmer with little capital.⁸⁵⁷

At the beginning of August, the *Thames Advertiser* reported that the land was 'still locked up' and 'likely to be so for some time', and wondered who was to blame. How could private individuals purchase thousands of acres in months when the government had taken years? Te Aroha had 'been in negotiation for purchase since 1868, and as yet not an acre of it is open for settlement'.⁸⁵⁸ Three days later, the lands board received a map of the 21,000 acres so far subdivided into sections. Pending the government deciding on the line of the railway, two township sites had been reserved, the best one, at Te Kawana, being a Maori reserve. 'Two sites for villages had also been temporarily reserved'.⁸⁵⁹ A fortnight later, the board's chairman reported that Smith was soon to investigate draining the swamps.

Mr FIRTH said with regard to the strip of land at Te Aroha which the Board had withdrawn from sale pending the formation of drains and roads, there was a strong desire, which was not at all unnatural, that it should be immediately opened. When they considered that since 1868 negotiations had been opened for this block, and the strong desire manifested to acquire it by settlers, and that there was not up to the present a single settler on it, it was no wonder that the desire that it should be at once thrown open should be manifested. It was a great pity that such a large proportion of the block was swamp land.

He was uncertain whether they should sell the land along the river now or postpone the sale until after the swamps were drained. If the board sold the river frontage, 'reserving the right to drain through it, the subsequent drainage could more readily be carried out' because there were

⁸⁵⁶ S. Percy Smith to Surveyor General, 12 June 1879, Lands and Survey Department, LS 1/2344, ANZ-W.

⁸⁵⁷ 'Agricola', 'Ten Days in the Waikato', *Auckland Weekly News*, 28 June 1879, p. 13.

⁸⁵⁸ Editorial, *Thames Advertiser*, 2 August 1879, p. 2.

⁸⁵⁹ Waste Lands Board, *Auckland Weekly News*, 16 August 1879, p. 9.

‘residents on the spot to do the work’. He wanted the frontage settled ‘at once’, thereby doing ‘something to compensate for the delay which had ensued. If the delay did not reflect on the officials employed in completing the purchase of the block, it shewed the difficulty of settling native lands in this district’. After other members expressed caution, Firth said that, ‘if they had to wait until the swamps were drained, years would be required instead of a month’, because it would take three years before the lands stopped subsiding. It was agreed to await the views of the chief surveyor.⁸⁶⁰ The board was ready to sell the surveyed township, suburban, and village sections, and objected to the government’s instruction to create an endowment for the Thames High School at Wairakau ‘as £3500 would be expended in surveying and draining the land, and they wished to recoup this expenditure before any part of the block was taken away’.⁸⁶¹ By this time it was estimated that the land had more than doubled in value because Firth had cleared the river of snags.⁸⁶²

In October, there was a complaint that the government had not ‘made arrangements to lay out and offer for sale a government township on the banks of the river’. New settlers wanted to know where it would be sited, ‘and their refraining from giving the public the necessary information is keeping capital out of the district’. But at least a surveyor had commenced ‘taking the levels, and laying off the drains’.⁸⁶³ The mid-October meeting of the board received information that the eastern portion of the block, 22,000 acres, was now under its jurisdiction, and also received a report from Smith:

3600 acres had been taken up as an endowment for the Thames High School. The greater portion of the rest was broken forest land, exclusive of reserves for native purposes. To the south of Wairakau reserve was 5000 acres of the best land; 4000 acres of this had been sub-divided into sections of 300 and 400 acres, but the remainder was not sub-divided. The swamps were not so bad as on the western portion of the block, and the land was excellent. He suggested that a reserve of 1000 acres should be made around Te Aroha mountain, to prevent its being disfigured or denuded.

The latter was agreed to, the rest of the land to be dealt with once maps were provided in about three weeks’ time. Firth said ‘it was of great

⁸⁶⁰ Waste Lands Board, *Auckland Weekly News*, 23 August 1879, p. 17.

⁸⁶¹ *Thames Advertiser*, 25 August 1879, p. 2.

⁸⁶² *Thames Advertiser*, 30 August 1879, p. 2.

⁸⁶³ Te Aroha Correspondent, *Thames Advertiser*, 15 October 1879, p. 3.

importance that those lands should be brought into the market as soon as possible. There had been a great deal of inquiry for them'.⁸⁶⁴ The *Thames Advertiser* praised the board for preserving the mountain, 'one of the most beautiful situations in New Zealand'.⁸⁶⁵

Just before the Grey ministry lost office in early October, Sheehan authorized the purchase of the Manawaru reserve from its four owners for £1,000.⁸⁶⁶ Wilkinson described it as 'very valuable land being the pick of the Aroha block'. Containing 'the only bush on the eastern side', the price was 'very cheap, indeed it would fetch more than three times as much if allowed to be sold to private parties'. Some Pakeha were attempted to buy it 'if they can get behind the restrictions'.⁸⁶⁷ The purchase was concluded by mid-November.⁸⁶⁸

Early in November, O'Halloran regretted that the new government had not yet opened the land for sale on the deferred payment system. The excuse had been that, to ensure a better price, drains had to be made. 'Well, to my knowledge, the drains are laid off, and in most cases the levels taken. Why are tenders not called for? Labour is cheap, and I am sorry to say numbers of good men are knocking about looking for work'.⁸⁶⁹ Firth recommended that the new Native Minister, John Bryce, purchase the reserves, for if he did not 'other parties will unless inalienable'.⁸⁷⁰ Bryce responded that as, if sold, some owners would become landless, the government would neither buy them nor permit Pakeha to do so.⁸⁷¹

In December, Smith reported on the imminent sale:

⁸⁶⁴ Waste Lands Board, *Auckland Weekly News*, 18 October 1879, p. 5.

⁸⁶⁵ *Thames Advertiser*, 18 October 1879, p. 3.

⁸⁶⁶ G.T. Wilkinson to R.J. Gill, 7 October 1879 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸⁶⁷ G.T. Wilkinson to R.J. Gill, 7 November 1879 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸⁶⁸ G.T. Wilkinson to R.J. Gill, 15 November 1879, Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸⁶⁹ Te Aroha Correspondent, *Thames Advertiser*, 8 November 1879, p. 2.

⁸⁷⁰ J.C. Firth to Frederick Whitaker, 14 November 1879 (telegram), Maori Affairs Department, MA 1, 13/86, ANZ-W.

⁸⁷¹ Memorandum by John Bryce (Native Minister), 17 November 1879, Maori Affairs Department, MA 1, 13/86, ANZ-W.

As the Aroha lands are all ready for sale (excepting those affected by the drainage scheme) and as the lands will in all probability fetch £2 per acre – I wish to bring under notice of the Government that this sale will possible affect the interests of the Government – in the adjoining Block of Waiharakeke – I believe the purchase of this Block is not complete for want of some few signatures – now if these are not obtained before the sale of the Aroha – I think it is only reasonable to suppose that the Natives seeing the high price that the Government lands fetch – will naturally require an additional price for Waiharakeke.⁸⁷²

This warning that, yet again, Maori were aware that they were receiving inadequate recompense was noted but did not result in any action.⁸⁷³ Also at the beginning of December, the lands board received a report that 42 suburban lots had been surveyed, ‘of from 5 to 10 acres each’, which Smith recommended ‘should be sold first, without waiting for a larger number’. The chairman also reported receiving a claim from Thomas Russell’s⁸⁷⁴ lawyer that Mackay had promised him from 7,000 to 8,000 acres of what was, ‘no doubt, the best land’.⁸⁷⁵ Another member ‘thought it somewhat singular that this claim should only crop up now. It did not arise when it was proposed to sell the land to Broomhall. Other members of the board coincided in expressing surprise at the claim now made, after the board had been at great expense in surveying’. It was agreed that although this land could not be sold until Russell’s claim was resolved it would sell other lots; an upset price of £3 an acre was set for the suburban ones and £2 for rural land. Sections to be sold on deferred payment would not be offered until the new Act came into force because then they could be sold at less than £3 per acre.⁸⁷⁶ The Auckland press expected the general public to be ‘as much astonished and surprised’ as the board at this ‘new phase in the many difficulties which have resulted from every effort to have the Te Aroha lands settled’.⁸⁷⁷ In December, the Thames Land Association

⁸⁷² S. Percy Smith to Surveyor General, 1 December 1879, Lands and Survey Department, LS 1/2344, ANZ-W.

⁸⁷³ Memoranda of Surveyor General, 5 December 1879, and John Bryce, 5 November 1880, Lands and Survey Department, LS 1/2344, ANZ-W.

⁸⁷⁴ See Russell Stone, *Makers of Fortune: A colonial business community and its fall* (Auckland, 1973).

⁸⁷⁵ See chapter on the Aroha Block after 1880.

⁸⁷⁶ Waste Lands Board, *Auckland Weekly News*, 6 December 1879, p. 15.

⁸⁷⁷ *Auckland Weekly News*, 6 December 1879, p. 8.

collected the names of people who wanted to settle under the terms of the deferred payment system, and intended to apply for 20,000 acres.⁸⁷⁸ At Ohinemuri, ‘many parties’ wanted to know when the land would be opened for selection under this system.⁸⁷⁹

CONCLUSION

Robyn Anderson, writing on behalf of the plaintiffs in the Hauraki Treaty Claim, has assessed the Crown’s behaviour critically:

The history of the alienation of the Te Aroha Block exemplified some of the worst features of court practice and Crown purchase policy in the late 1860s and 1870s. The early grant to ten claimants representing one set of right-holders only, involving Hauraki in a rehearing which was noted for the large legal costs involved; the deployment of *raihana*; and the exacerbation of tribal tensions by the court’s erratic findings, and by payments to outside interests, “friendly” hapu, and individuals, as agents for the Crown sought to take every possible advantage of those divisions in order to break down non-selling resistance and to ensure that debt accumulated against the land.⁸⁸⁰

It should be noted that, although there undoubtedly were ‘large legal fees involved’ through the use of legal counsel, the court had decided not to require the payment of court fees.⁸⁸¹ Although the Waitangi Tribunal did not support Anderson’s argument about the court hearings,⁸⁸² in general it agreed with her view of the process.⁸⁸³ After three hearings, the outcome was that Ngati Rahiri’s land was acquired by the Crown for selling on to Pakeha settlers, and the payments they received had been, or soon would be, dissipated.

Appendix

⁸⁷⁸ *Thames Advertiser*, 17 December 1879, p. 2, 18 December 1879, p. 2.

⁸⁷⁹ Ohinemuri Correspondent, *Thames Advertiser*, 22 December 1879, p. 3.

⁸⁸⁰ Robyn Anderson, ‘The Crown, the Treaty, and the Hauraki Tribes, 1800-1885’, in Hauraki Maori Trust Board, *The Hauraki Treaty Claim* (Paeroa, 1997), vol. 4, p. 253.

⁸⁸¹ *Auckland Weekly News*, 24 March 1871, p. 14.

⁸⁸² Waitangi Tribunal, *The Hauraki Report*, vol. 2, pp. 481-482.

⁸⁸³ See paper on Maori land in Hauraki.

Figure 1: James Mackay, ‘Sketch Map of the Tauranga and Waikato District’, 7 January 1871, NZ Map 3609, Sir George Grey Special Collections, Auckland Public Libraries; used with permission.

Figure 2: Alfred Joshua Thorp, ‘Te Aroha No. 1’, 6 December 1873, ML 3008, University of Waikato Map Library.

Figure 3: Portion of Alfred Joshua Thorp, ‘Te Aroha No. 1’, 6 December 1873, ML 3008, University of Waikato Map Library.

Figure 4: Oliver Creagh, ‘Plan of Aroha Block, Upper Thames District, Queen’s County. Applied for by Karauna Hou, [Aihe] Pepene, Kepa Te Wharau [recorded as Wharini], and others’, 31 December 1873, ML 3062, University of Waikato Map Library.

Figure 5: ‘Te Aroha, Topographic’, n.d. [1879], SO 1912A, University of Waikato Map Library.

Figure 6: Portion of ‘Te Aroha, Topographic’, n.d. [1879], from the Mangaiti Stream to the hot springs, SO 1912A, University of Waikato Map Library.

Figure 7: Portion of ‘Te Aroha, Topographic’, n.d. [1879], from the hot springs to ‘Wairakau Native Reserve’, SO 1912A, University of Waikato Map Library.

Figure 8: Joseph K. Patrick, ‘Plan of Portion of Te Aroha Block claimed by the Ngatihura Hapu of Ngatipaoa Trbe’, 31 December 1873, ML 3124, University of Waikato Map Library.

Figure 9: Joseph K. Patrick, ‘Plan of Waihou River in Aroha Block and also of the Subdivisions of the Same, Banks County’, 1876, ML 3503, University of Waikato Map Library.

Figure 10: Portion of Joseph K. Patrick, ‘Plan of Waihou River in Aroha Block and also of the Subdivisions of the Same, Banks County’, 1876, ML 3503, University of Waikato Map Library.

Figure 11: ‘Te Aroha Block and Mr Broomhall’s Proposed Special Settlement’, *AJHR*, 1878, D-8, facing p. 8.

Figure 12: Te Aroha purchase, 1878, mapped by Max Oulton, University of Waikato, published in Waitangi Tribunal, *The Hauraki Report: Wai 686* (Wellington, 2006), vol. 2, p. 468; used with permission.

Figure 13: F.H. Edgecumbe for W.A. Graham, ‘Omahu Native Reserve, Rough Field Plan, Incomplete’, n.d. [1878], ML 14312-1, University of Waikato Map Library.

Figure 14: Portion of F.H. Edgecumbe for W.A. Graham, ‘Omahu Native Reserve, Rough Field Plan, Incomplete’, n.d. [1878], ML 14312-1, University of Waikato Map Library.

Figure 15: F.H. Edgecumbe, continuation of ‘Rough Field Plan’ showing area between Te Aroha Goldfields Township and the Thames High School Endowment, n.d. [1878], ML 14312-2, University of Waikato Map Library.

Figure 16: Portion of F.H. Edgecumbe, continuation of ‘Rough Field Plan’, n.d. [1878, with later additions], ML 14312-2, University of Waikato Map Library.

Figure 17: H.W. Rowe, ‘Block XII, Te Aroha Dist.’, June 1879, SO 1968, University of Waikato Map Library.

Figure 18: ‘Block IX Te Aroha’, June 1879, SO 1966A-1, University of Waikato Map Library.

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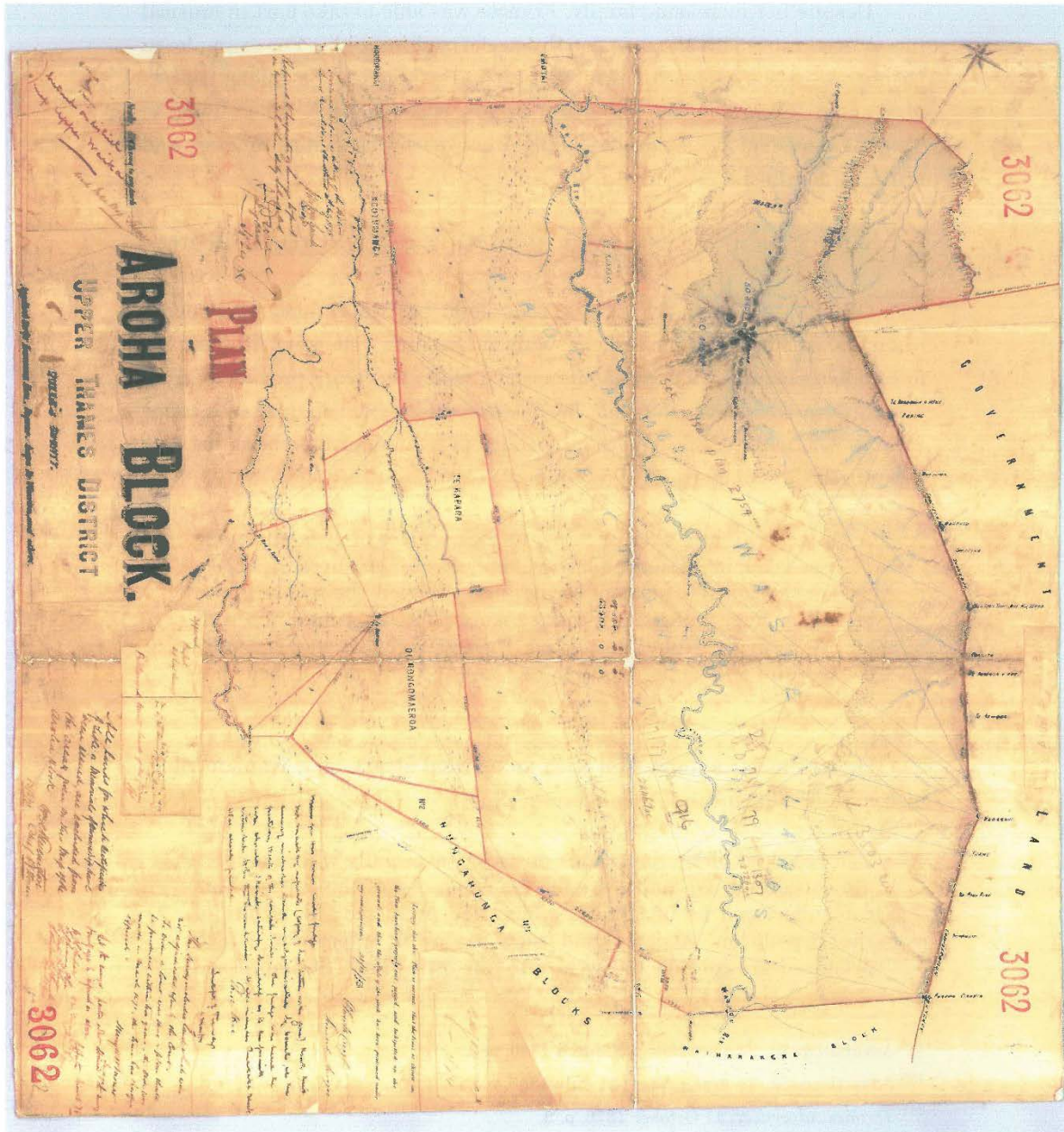


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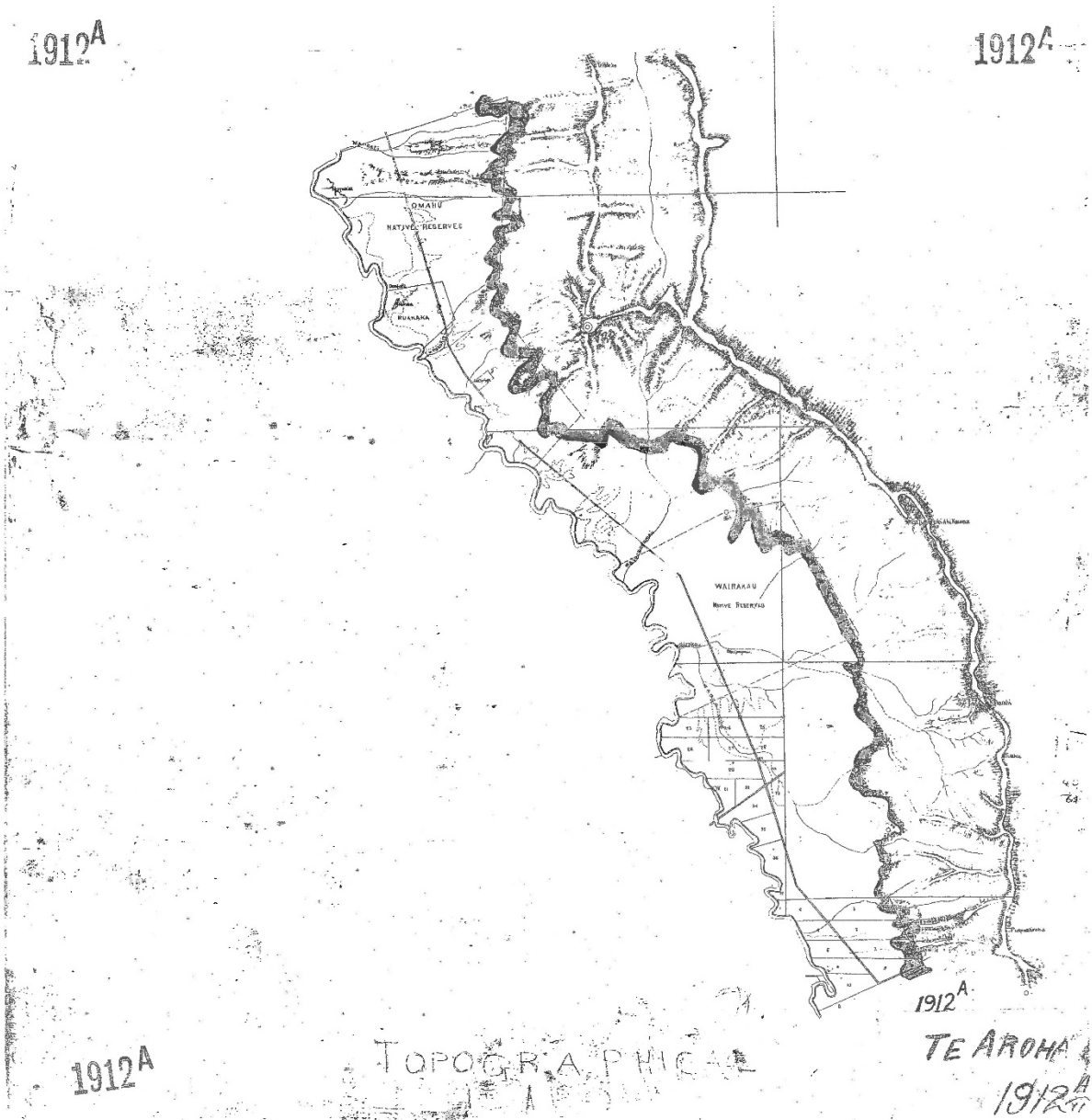


Figure 5: 'Te Aroha, Topographic', n.d. [1879], SO 1912A, University of Waikato Map Library.

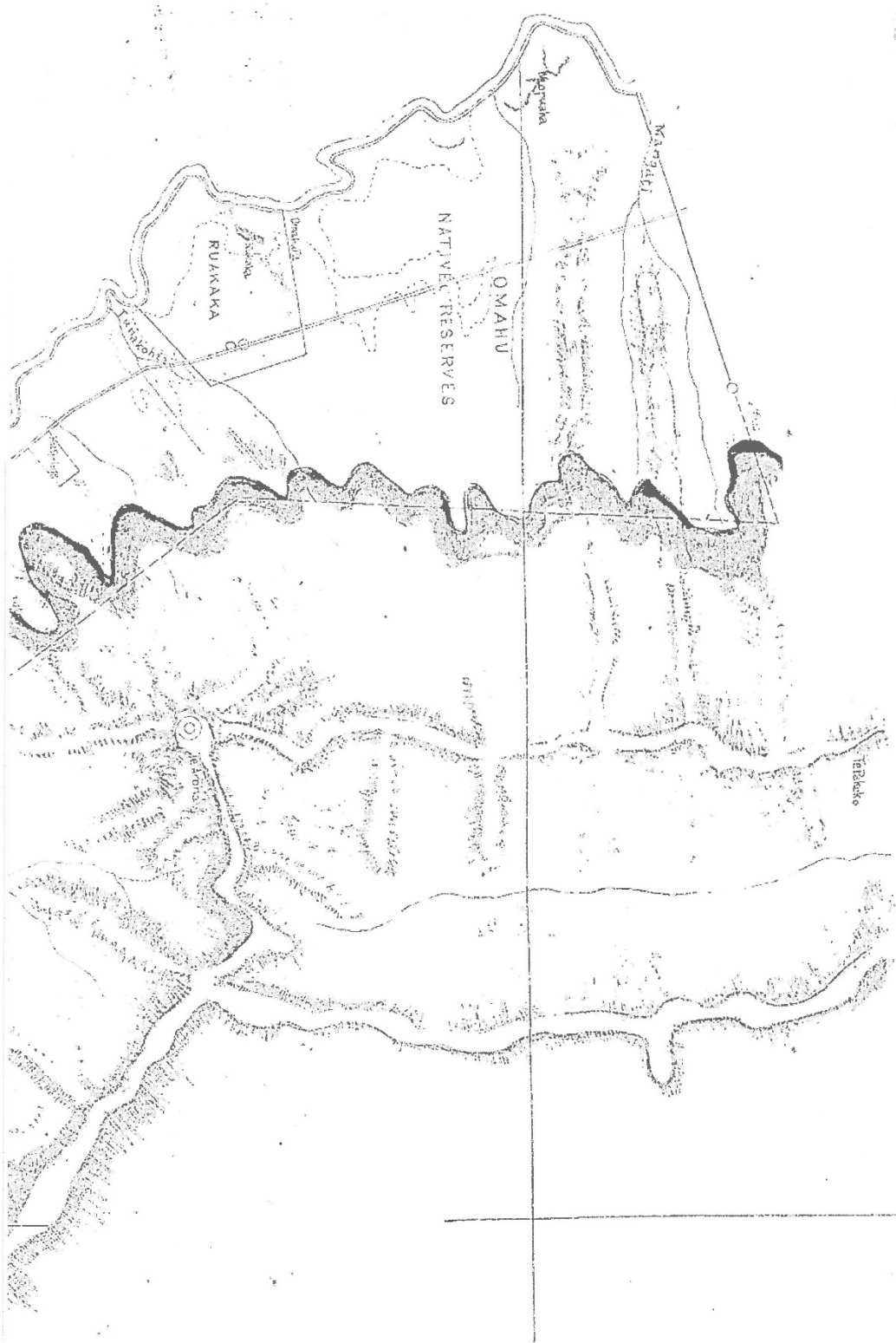


Figure 6: Portion of 'Te Aroha, Topographic', n.d. [1879], from the Mangaiti Stream to the hot springs, SO 1912A, University of Waikato Map Library.

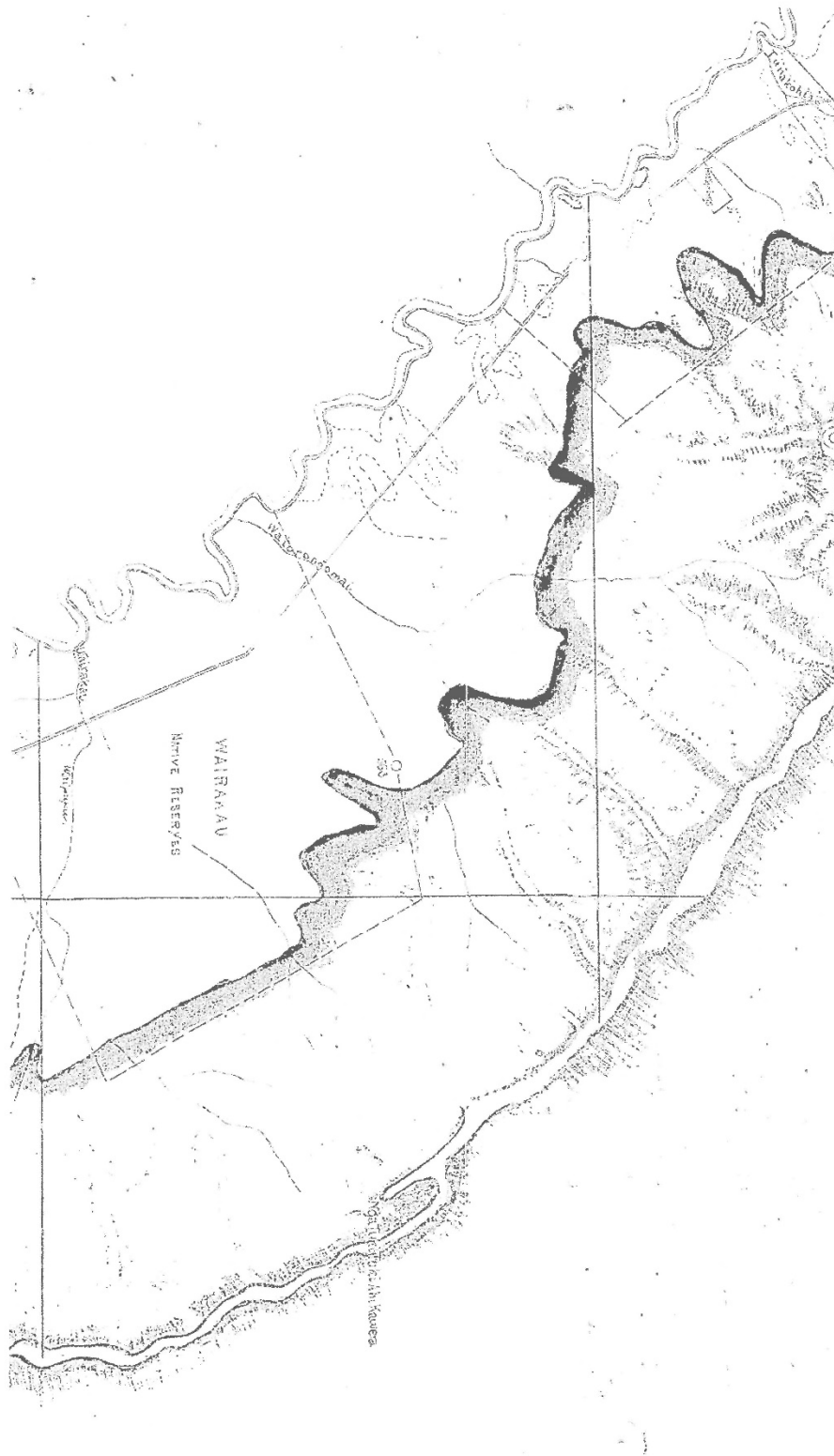


Figure 7: Portion of 'Te Aroha, Topographic', n.d. [1879], from the hot springs to 'Wairakau Native Reserve', SO 1912A, University of Waikato Map Library.

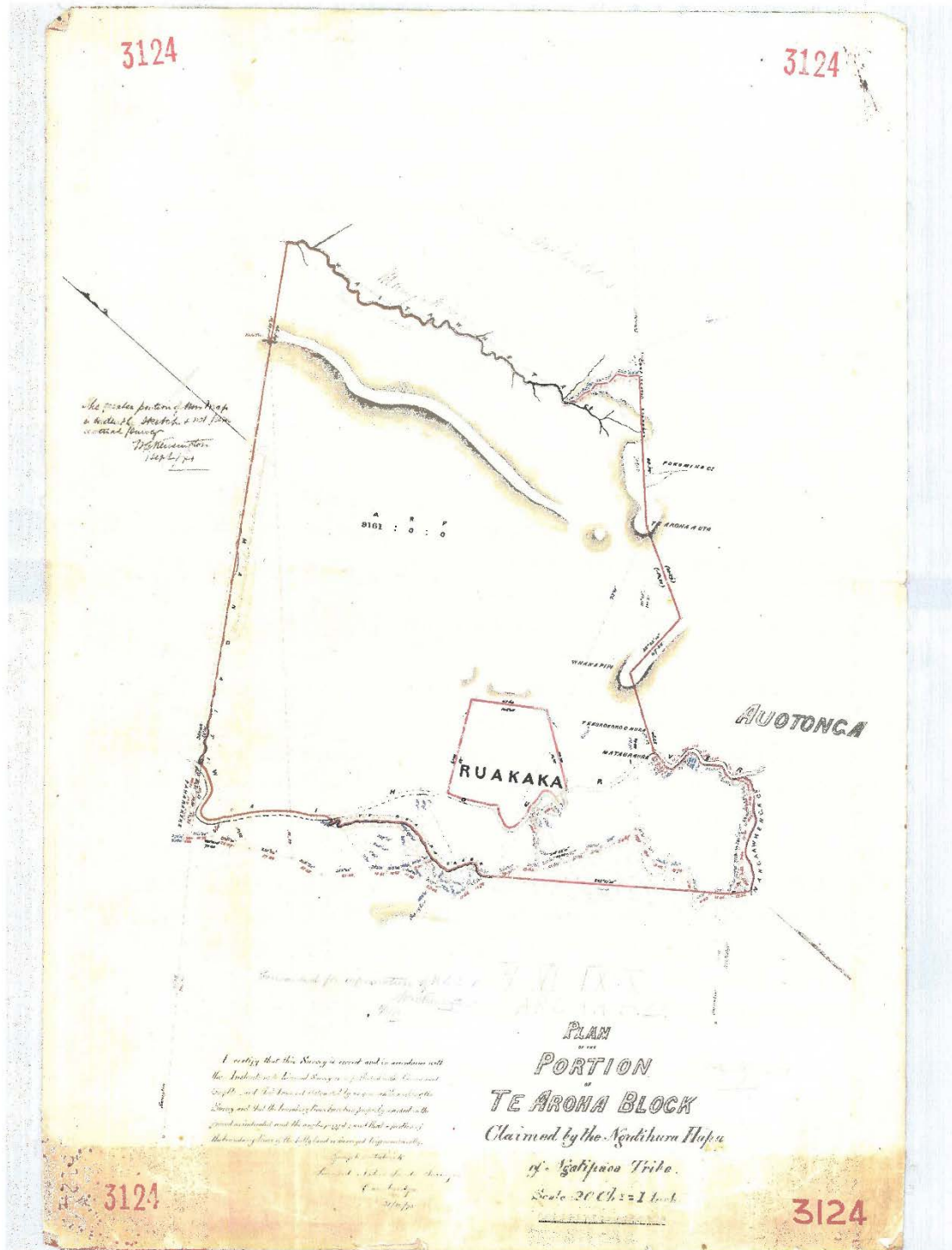


Figure 8: Joseph K. Patrick, 'Plan of Portion of Te Aroha Block claimed by the Ngatihura Hapu of Ngatipaoa Tribe', 31 December 1873, ML 3124, University of Waikato Map Library.

Figure 9: Joseph K. Patrick, 'Plan of Waihou River in Aroha Block and also of the Subdivisions of the Same, Banks County', 1876, ML 3503, University of Waikato Map Library.

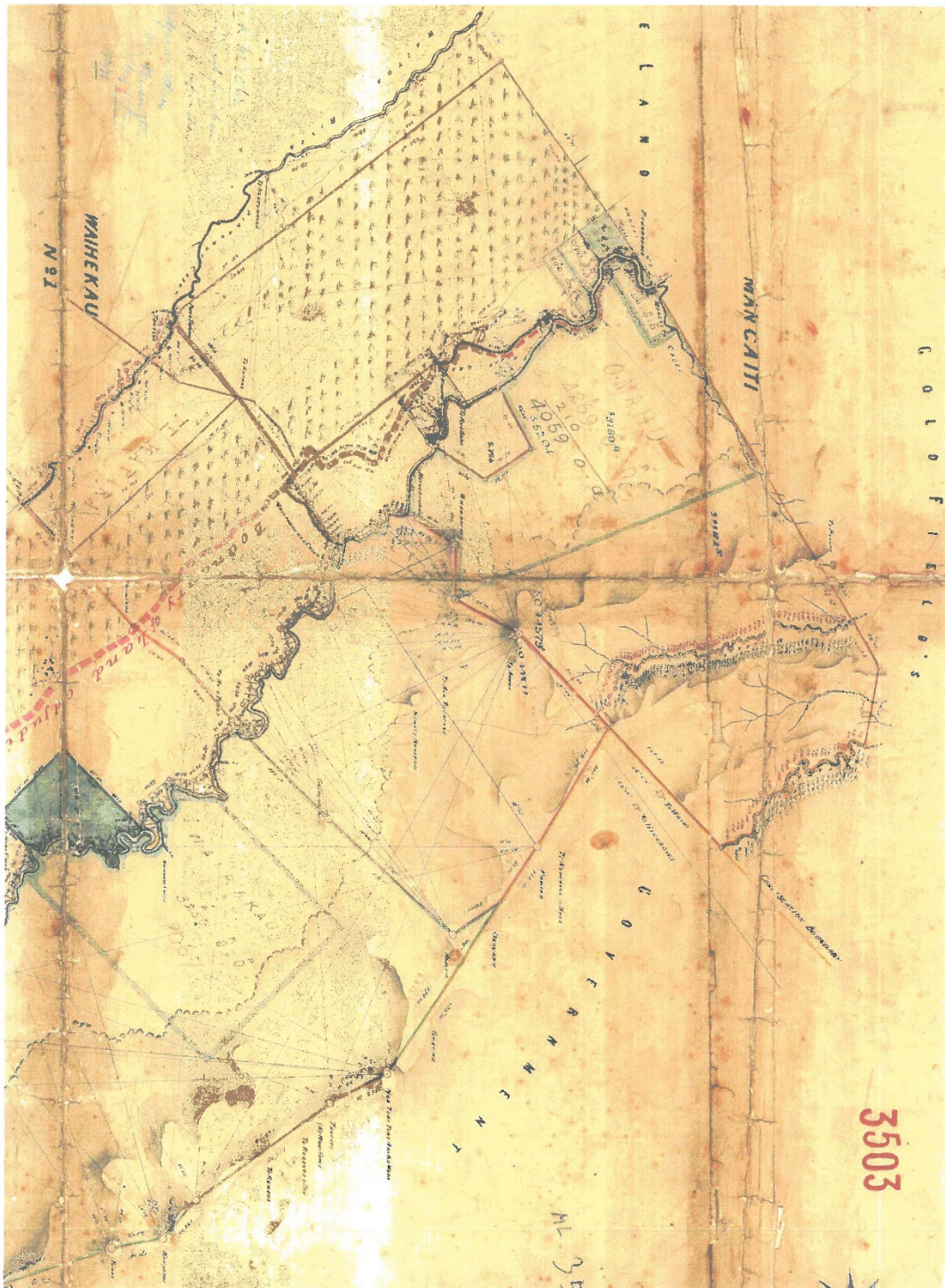
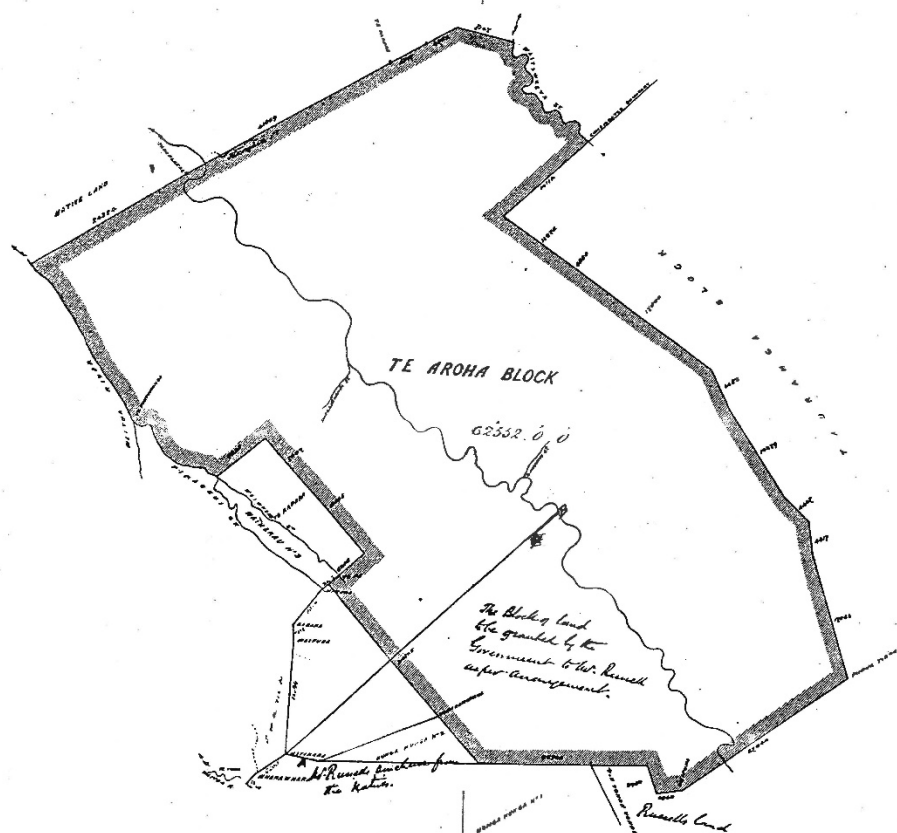


Figure 10: Portion of Joseph K. Patrick, 'Plan of Waihou River in Aroha Block and also of the Subdivisions of the Same, Banks County', 1876, ML 3503, University of Waikato Map Library.



The joints marked A and B are here
alluded to in the correspondence
between myself and Mr Thomas Ryall
respecting the purchase of lands on the
West side of the river Marston. See
Parliamentary paper 1876 C-54 page
5. Enclosure 4. in 155

James Mackay

Figure 11: ‘Te Aroha Block and Mr Broomhall’s Proposed Special Settlement’, AJHR, 1878, D-8, facing p. 8.

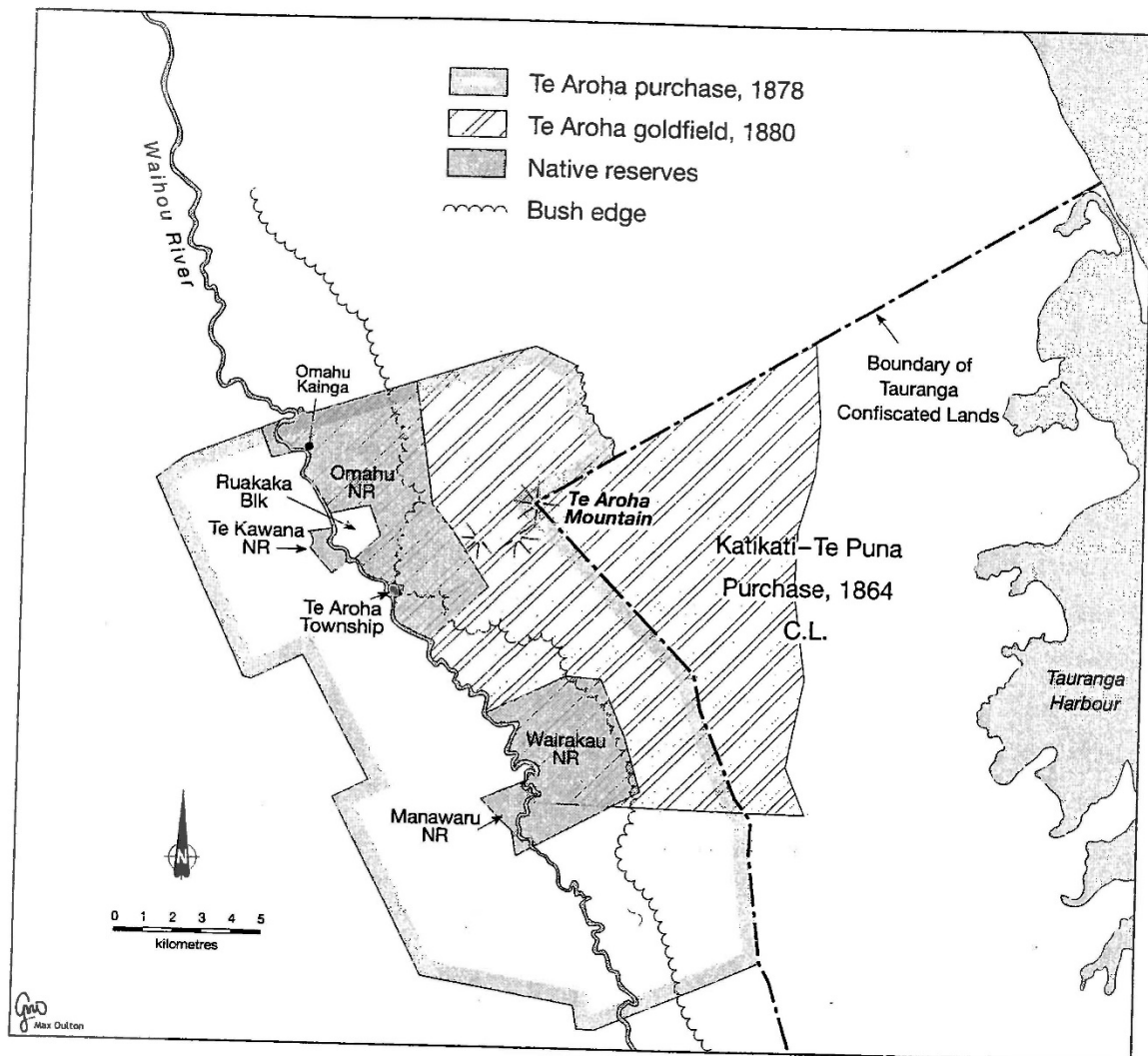


Figure 12: Te Aroha purchase, 1878, mapped by Max Oulton, University of Waikato, published in Waitangi Tribunal, *The Hauraki Report: Wai 686* (Wellington, 2006), vol. 2, p. 468; used with permission.

Figure 13: F.H. Edgecumbe for W.A. Graham, 'Omahu Native Reserve, Rough Field Plan, Incomplete', n.d. [1878], ML 14312-1, University of Waikato Map Library.



Figure 14: Portion of F.H. Edgecumbe for W.A. Graham, 'Omahu Native Reserve, Rough Field Plan, Incomplete', n.d. [1878], ML 14312-1, University of Waikato Map Library.



Figure 15: F.H. Edgecumbe, continuation of 'Rough Field Plan' showing area between Te Aroha Goldfields Township and the Thames High School Endowment, n.d. [1878], ML 14312-2, University of Waikato Map Library.



Figure 16: Portion of F.H. Edgecumbe, continuation of 'Rough Field Plan', n.d. [1878, with later additions], ML 14312-2, University of Waikato Map Library.

University of Waikato Map Library.

